

**CITY OF SANTA BARBARA
CITY COUNCIL
REDEVELOPMENT AGENCY**

Marty Blum
Mayor/Chair
Dale Francisco
Mayor Pro Tempore/Vice Chair
Das Williams
Ordinance Committee Chair
Roger L. Horton
Finance Committee Chair
Iya G. Falcone
Grant House
Helene Schneider



James L. Armstrong
*City Administrator/
Executive Director*

Stephen P. Wiley
City Attorney/Agency Counsel

City Hall
735 Anacapa Street
<http://www.SantaBarbaraCA.gov>

**DECEMBER 8, 2009
AGENDA**

ORDER OF BUSINESS: Regular meetings of the Finance Committee and the Ordinance Committee begin at 12:30 p.m. The regular City Council and Redevelopment Agency meetings begin at 2:00 p.m. in the Council Chamber at City Hall.

REPORTS: Copies of the reports relating to agenda items are available for review in the City Clerk's Office, at the Central Library, and <http://www.SantaBarbaraCA.gov>. In accordance with state law requirements, this agenda generally contains only a brief general description of each item of business to be transacted or discussed at the meeting. Should you wish more detailed information regarding any particular agenda item, you are encouraged to obtain a copy of the Council Agenda Report (a "CAR") for that item from either the Clerk's Office, the Reference Desk at the City's Main Library, or online at the City's website (<http://www.SantaBarbaraCA.gov>). Materials related to an item on this agenda submitted to the Council/Redevelopment Agency after distribution of the agenda packet are available for public inspection in the City Clerk's Office located at City Hall, 735 Anacapa Street, Santa Barbara, CA 93101, during normal business hours.

PUBLIC COMMENT: At the beginning of the 2:00 p.m. session of each regular Council/Redevelopment Agency meeting, and at the beginning of each special Council/Redevelopment Agency meeting, any member of the public may address them concerning any item not on the Council/Redevelopment Agency agenda. Any person wishing to make such address should first complete and deliver a "Request to Speak" form prior to the time that public comment is taken up by the Council/Redevelopment Agency. Should Council/Redevelopment Agency business continue into the evening session of a regular Council/Redevelopment Agency meeting at 6:00 p.m., the Council/Redevelopment Agency will allow any member of the public who did not address them during the 2:00 p.m. session to do so. The total amount of time for public comments will be 15 minutes, and no individual speaker may speak for more than 1 minute. The Council/Redevelopment Agency, upon majority vote, may decline to hear a speaker on the grounds that the subject matter is beyond their jurisdiction.

REQUEST TO SPEAK: A member of the public may address the Finance or Ordinance Committee or Council/Redevelopment Agency regarding any scheduled agenda item. Any person wishing to make such address should first complete and deliver a "Request to Speak" form prior to the time that the item is taken up by the Finance or Ordinance Committee or Council/Redevelopment Agency.

CONSENT CALENDAR: The Consent Calendar is comprised of items that will not usually require discussion by the Council/ Redevelopment Agency. A Consent Calendar item is open for discussion by the Council/Redevelopment Agency upon request of a Council/Agency Member, City staff, or member of the public. Items on the Consent Calendar may be approved by a single motion. Should you wish to comment on an item listed on the Consent Agenda, after turning in your "Request to Speak" form, you should come forward to speak at the time the Council/Redevelopment Agency considers the Consent Calendar.

AMERICANS WITH DISABILITIES ACT: In compliance with the Americans with Disabilities Act, if you need special assistance to gain access to, comment at, or participate in this meeting, please contact the City Administrator's Office at 564-5305 or inquire at the City Clerk's Office on the day of the meeting. If possible, notification at least 48 hours prior to the meeting will enable the City to make reasonable arrangements in most cases.

TELEVISION COVERAGE: Each regular Council meeting is broadcast live in English and Spanish on City TV Channel 18, and rebroadcast in English on Wednesdays and Thursdays at 7:00 p.m. and Saturdays at 9:00 a.m., and in Spanish on Sundays at 4:00 p.m. Each televised Council meeting is closed captioned for the hearing impaired. Check the City TV program guide at www.citytv18.com for rebroadcasts of Finance and Ordinance Committee meetings, and for any changes to the replay schedule.

ORDER OF BUSINESS

- 1:00 p.m. - Special Finance Committee Meeting, David Gebhard Public Meeting Room
- 2:00 p.m. - City Council Meeting Begins
- 2:00 p.m. - Redevelopment Agency Meeting
- 5:00 p.m. - Recess
- 6:00 p.m. - City Council Meeting Reconvenes

SPECIAL FINANCE COMMITTEE MEETING - 1:00 P.M. IN THE DAVID GEBHARD PUBLIC MEETING ROOM, 630 GARDEN STREET (120.03)

Subject: Redevelopment Agency 2009 Annual Report

Recommendation: That the Finance Committee recommend that Council and the Redevelopment Agency Board:

- A. Approve the Comprehensive Annual Financial Report for the Fiscal Year ended June 30, 2009, consisting of the Auditor's Opinion and Financial Statements, and the Auditor's Compliance Report; and
- B. Direct staff to submit required copies of the Report to the California State Controller's Office.

(See Council/Redevelopment Agency Agenda Item No. 15)

**REGULAR CITY COUNCIL MEETING – 2:00 P.M.
REGULAR REDEVELOPMENT AGENCY MEETING – 2:00 P.M.**

AFTERNOON SESSION

CALL TO ORDER

PLEDGE OF ALLEGIANCE

ROLL CALL

CEREMONIAL ITEMS

1. Subject: Employee Recognition - Service Award Pins (410.01)

Recommendation: That Council authorize the City Administrator to express the City's appreciation to employees who are eligible to receive service award pins for their years of service through December 31, 2009.

2. Subject: Proclamation Declaring December 7-14, 2009, As Santa Barbara Festival Ballet Nutcracker Week (120.04)

CHANGES TO THE AGENDA

PUBLIC COMMENT

CONSENT CALENDAR

CITY COUNCIL

3. Subject: Minutes

Recommendation: That Council waive the reading and approve the minutes of the special meeting of October 24, 2009, the regular meeting of October 27, 2009, the regular meeting of November 3, 2009 (cancelled), and the special meetings of November 9, 2009.

CONSENT CALENDAR (CONT'D)

CITY COUNCIL (CONT'D)

4. Subject: Adoption Of Ordinance For Amendment To Vic Trace Reservoir Communications Site Lease (330.04)

Recommendation: That Council adopt, by reading of title only, An Ordinance of the Council of the City of Santa Barbara Approving Amendment No. 1 to the Lease Agreement No. 17,461, Between the City of Santa Barbara and Santa Barbara Cellular Systems, Ltd., Located on a Portion of the Vic Trace Reservoir Property (APN 035-033-013), to Allow Lessee the Right to Sublease Upon Written Consent from the City of Santa Barbara, and Authorizing the Public Works Director to Execute Same.

5. Subject: Revised Resolution For The 2030 Las Canoas Road Annexation (680.04)

Recommendation: That Council adopt, by reading of title only, A Resolution of the Council of the City of Santa Barbara Requesting Initiation of Proceedings for a Reorganization of Boundaries, Annexation to the City of Santa Barbara, Detachment from the Santa Barbara County Fire Protection District, and Detachment from County Service Areas No. 12 and 32, for Certain Real Property Presently Located at 2030 Las Canoas Road, Assessor's Parcel Number 021-010-061.

6. Subject: Increase In Change Order Authority For The Upper Las Positas Creek Restoration And Storm Water Improvement Project (540.14)

Recommendation: That Council:

- A. Approve an increase to the change order authority for Contract No. 23,117 with Shaw Contracting, Inc. (Shaw), for the Upper Las Positas Creek Restoration and Storm Water Improvement Project (Project) in the amount of \$400,000, for a total change order authority of \$848,349, pursuant to Santa Barbara Municipal Code Sections 4.52.080 and 9.116.060 relating to emergency purchases, to cover the cost of emergency work currently underway; and
- B. Approve an increase in change order authority with Fugro West, Inc. (Fugro), Contract No. 23,119, in the amount of \$35,000, for material testing and inspection for the Project, for a total change order authority of \$37,820.

CONSENT CALENDAR (CONT'D)

CITY COUNCIL (CONT'D)

7. Subject: School Crossing Guards (150.05)

Recommendation: That Council:

- A. Authorize the Chief of Police to execute a Memorandum of Understanding, subject to approval of the City Attorney, between the City of Santa Barbara and the Santa Barbara School Districts and Hope School District for school crossing guard services through June 3, 2010; and
- B. Increase estimated revenues and appropriations by \$129,500 in the General Fund Police Department's Parking Enforcement Program for the costs of the school crossing guards to be reimbursed by the Santa Barbara School District (\$112,000) and Hope School District (\$17,500).

8. Subject: Safe Transportation Research And Education Center (SafeTREC) Of The California School Of Public Health, Berkeley (UC Berkeley) (520.04)

Recommendation: That Council:

- A. Accept \$26,205 from the University of California School of Public Health, Berkeley, to the Police Department and authorize the Chief of Police to execute the grant agreement; and
- B. Increase Fiscal Year 2010 Miscellaneous Grants Fund estimated revenue and appropriations in the amount of \$26,205 for the Sobriety Checkpoint Program.

9. Subject: Request For Preliminary Community Priority Designation For The Cancer Center Of Santa Barbara Project At 540 W. Pueblo Street (640.09)

Recommendation: That Council make a preliminary finding that the project proposed for The Cancer Center of Santa Barbara meets the definition of a Community Priority Project, and grant the project a Preliminary Community Priority Designation for 5,845 square feet of nonresidential floor area.

10. Subject: Acceptance And Appropriation Of Commute Challenge Prize From Traffic Solutions (150.03)

Recommendation: That Council:

- A. Accept \$700 in prize monies from the Santa Barbara County Association of Governments' (SBCAG) Traffic Solutions for the Commute Challenge Program; and
- B. Increase estimated revenues and appropriations by \$700 in the Fiscal Year 2010 Streets Capital Fund to be used for the Work Trip Reduction Incentive Program.

CONSENT CALENDAR (CONT'D)

CITY COUNCIL (CONT'D)

11. Subject: Establish General Aviation Landing Fees (560.01)

Recommendation: That Council:

- A. Approve the establishment of a general aviation landing fee to be assessed on all Federal Aviation Regulation (FAR) Part 135 operations and all transient (non-based aircraft, which shall be defined as all aircraft not listed on the annual Santa Barbara County Unsecured Property Assessment and Taxation System, California Department of Aeronautics Report of Aircraft) aircraft 10,000 pounds of gross landed weight or greater, to assist in recovery of expenses related to the operation and maintenance of the airfield; and
- B. Authorize the Airport Director to negotiate and execute an Agreement to Collect and Remit Landing Fees, subject to approval of the form of the agreement by the City Attorney, with the two fixed base operators, Signature Flight Support and Atlantic Aviation, effective January 1, 2010.

12. Subject: Increase To Purchase Order Issued To Martin & Chapman Company For Election-Related Services (110.03)

Recommendation: That Council authorize the Administrative Services Director to increase the expenditure authority for Agreement No. 23,124, issued to Martin & Chapman Company, by \$16,315.14, for a total of \$125,565.14, for election-related services performed during the 2009 Vote-by-Mail General Municipal Election.

13. Subject: Contract For Design Of The El Estero Wastewater Treatment Plant Influent Pump Replacements (540.13)

Recommendation: That Council authorize the Public Works Director to execute a City Professional Services contract with the firm of Brown and Caldwell Engineers (Brown & Caldwell) in the amount of \$254,119, for design services for El Estero Wastewater Treatment Plant (El Estero) Influent Pump Replacements, and authorize the City General Services Manager to approve expenditures of up to \$25,500 for extra services by Brown and Caldwell that may result from necessary changes in the scope of design work.

14. Subject: Re-Appointment Of Youth Intern Applicant To Park And Recreation Commission (570.08)

Recommendation: That Council request that Mayor Blum re-appoint Diego Torres-Santos to the position of Youth Intern on the Park and Recreation Commission.

CONSENT CALENDAR (CONT'D)

REDEVELOPMENT AGENCY

15. Subject: Redevelopment Agency 2009 Annual Report (620.01)

Recommendation: That Council and the Redevelopment Agency Board:

- A. Approve the Comprehensive Annual Financial Report for the Fiscal Year ended June 30, 2009, consisting of the Auditor's Opinion and Financial Statements, and the Auditor's Compliance Report; and
- B. Direct staff to submit required copies of the Report to the California State Controller's Office.

16. Subject: Santa Barbara Trust For Historic Preservation Bridge Loan Repayment (640.06)

Recommendation: That the Redevelopment Agency Board:

- A. Accept the repayment of a bridge loan from the Santa Barbara Trust for Historic Preservation; and
- B. Appropriate the \$522,180 in repayment funds in the Fiscal Year 2010 Redevelopment Agency Capital Fund's Project Contingency Account.

17. Subject: Contract For Design Services For The Fire Station No. 1 Annex Renovation Project (700.08)

Recommendation:

- A. That the Redevelopment Agency Board authorize the expenditure of \$204,000 from the Agency's Fire Department Administration Annex Project account in the 2003A Bond Fund for final design services relating to the renovation of the Fire Station No. 1 Annex building (Project); and
- B. That Council authorize the Public Works Director to execute a contract with Kruger Bensen Ziemer Architects, Inc. (KBZ), in the amount of \$185,500, for final design services for the Project, and approve expenditures of up to \$18,500 for extra services of KBZ that may result from necessary changes in the scope of work.

NOTICES

18. The City Clerk has on Thursday, December 3, 2009, posted this agenda in the Office of the City Clerk, on the City Hall Public Notice Board on the outside balcony of City Hall, and on the Internet.

This concludes the Consent Calendar.

REPORT FROM THE FINANCE COMMITTEE

CITY COUNCIL ADMINISTRATIVE AND ATTORNEY REPORTS

CITY ADMINISTRATOR

19. Subject: Cachuma Operations And Maintenance Board Bond Discussion (540.03)

Recommendation: That Council receive a verbal report on the status of the Cachuma Operations and Maintenance Board (COMB) Bond Issue and Capital Improvement Projects.

PUBLIC HEARINGS

20. Subject: Appeal Of Planning Commission Denial Of A Project At 617 Bradbury Avenue (640.07)

Recommendation: That Council uphold the appeal filed by David Lack to reverse the Planning Commission denial of the project, and approve the Modification and Tentative Subdivision Map, subject to the conditions of approval and findings outlined in Staff Hearing Officer Resolution No. 062-09 (MST2007-00559); direct applicant to restudy the architecture, and to submit to the Architectural Board of Review (ABR) a project with an architectural style similar to that of the buildings on the west side of Bradbury Avenue; and direct the ABR to allow a slight increase in the size, bulk and scale of the project, as required to change the architectural style of the building.

CITY COUNCIL ADMINISTRATIVE AND ATTORNEY REPORTS (CONT'D)

PARKS AND RECREATION DEPARTMENT

21. Subject: Tree Preservation And Landscape Plan Policy Recommendations (570.05)

Recommendation: That Council:

- A. Introduce and subsequently adopt, by reading of title only, An Ordinance of the Council of the City of Santa Barbara Amending Chapters 15.20 and 15.24 and Title 22 of the Santa Barbara Municipal Code Relating to the Preservation of Trees and the Maintenance of Approved Landscape Plans; and
- B. Adopt, by reading of title only, A Resolution of the Council of the City of Santa Barbara Establishing Administrative Penalties for Tree Removal, Excessive Pruning and Landscape Plan Maintenance Violations of Chapters 15.20, 15.24, and 22.11 of the Santa Barbara Municipal Code.

COUNCIL AND STAFF COMMUNICATIONS

COUNCILMEMBER COMMITTEE ASSIGNMENT REPORTS

CLOSED SESSIONS

22. Subject: Conference With Legal Counsel - Pending Litigation (160.03)

Recommendation: That Council hold a closed session to consider pending litigation pursuant to subsection (a) of section 54956.9 of the Government Code and take appropriate action as needed. Pending litigation considered is: Warner McGrew v. City of Santa Barbara, WCAB, Case Number GOL 0101359.

Scheduling: Duration, 10 minutes; anytime

Report: None anticipated

RECESS

EVENING SESSION

RECONVENE

ROLL CALL

PUBLIC COMMENT

CITY COUNCIL ADMINISTRATIVE AND ATTORNEY REPORTS

COMMUNITY DEVELOPMENT DEPARTMENT

23. Subject: Medical Marijuana Dispensary Suspension Ordinance (520.04)

Recommendation: That Council introduce and subsequently adopt, by reading of title only, An Ordinance of the Council of the City of Santa Barbara Temporarily Suspending the Opening or Operation of New Medical Marijuana Dispensaries Otherwise Allowed Under Santa Barbara Municipal Code Chapter 28.80 on an Interim Basis.

ADJOURNMENT

CITY OF SANTA BARBARA
FINANCE COMMITTEE
SPECIAL MEETING AGENDA

DATE: December 8, 2009

TIME: 1:00 p.m.

PLACE: David Gebhard Public Meeting Room
630 Garden Street

Roger L. Horton, Chair

Helene Schneider

Iya Falcone

James L. Armstrong
City Administrator

Robert Samario
Interim Finance Director

ITEM TO BE CONSIDERED:

Subject: Redevelopment Agency 2009 Annual Report

Recommendation: That the Finance Committee recommend that Council and the Redevelopment Agency Board:

- A. Approve the Comprehensive Annual Financial Report for the Fiscal Year ended June 30, 2009, consisting of the Auditor's Opinion and Financial Statements, and the Auditor's Compliance Report; and
- B. Direct staff to submit required copies of the Report to the California State Controller's Office.

(See Council/Redevelopment Agency Agenda Item No. 15)



CITY OF SANTA BARBARA

COUNCIL AGENDA REPORT

AGENDA DATE: December 8, 2009

TO: Mayor and Councilmembers

FROM: City Administrator's Office

SUBJECT: Employee Recognition – Service Award Pins

RECOMMENDATION:

That Council authorize the City Administrator to express the City's appreciation to employees who are eligible to receive service award pins for their years of service through December 31, 2009.

DISCUSSION:

Since 1980, the City Employees' Recognition Program has recognized length of City Service. Service award pins are presented to employees for every five years of service. Those employees achieving 25 years of service or more are eligible to receive their pins in front of the City Council.

Attached is a list of those employees who will be awarded pins for their service through December 31, 2009.

ATTACHMENT: December 2009 Service Awards

SUBMITTED BY: Marcelo A. López, Administrative Services Director

APPROVED BY: City Administrator's Office

DECEMBER 2009 SERVICE AWARDS

December 8, 2009 Council Meeting

5 YEARS

James Hernandez, Maintenance Crew Leader, Public Works
Mark Wilkening, Administrative Specialist, Public Works
Cathleen Daniels, Senior Grounds Maintenance Worker, Parks and Recreation
Juan Garcia, Grounds Maintenance Worker II, Parks and Recreation
Karl Treiberg, Waterfront Facilities Manager, Waterfront

10 YEARS

Lesley Torgeson, Network/Applications Analyst, Administrative Services
Brian Bosse, Housing and Redevelopment Manager, Community Development
David Lopez, Airport Patrol Officer, Airport

25 YEARS

Pamela Christian, Animal Control Supervisor, Police Department
Mark Rauch, Parks Supervisor, Parks and Recreation

30 YEARS

Denise Reid, Administrative Specialist, Parks and Recreation



PROCLAMATION

SANTA BARBARA FESTIVAL BALLET

"Nutcracker Week"

December 7-14, 2009

WHEREAS, The Santa Barbara Festival Ballet was established in 1970 for the purpose of training, educating and mentoring young artists in the dance arts; and to provide a pre-professional ballet company for the young people of Santa Barbara; and

WHEREAS, The Santa Barbara Festival Ballet continues to foster and support young artists, giving them the opportunity to perform "The Nutcracker" with a live symphony orchestra; and

WHEREAS the Santa Barbara Festival Ballet continues enchanting our community with our annual holiday tradition of "The Nutcracker" at the Arlington Theater, all to the beautiful music from a full, live symphony orchestra, for another 35 years; and

WHEREAS, The Santa Barbara Festival Ballet keeps the opportunity alive for young dancers to perform on stage with professional dancers, ^ and fills the audience with people of different cultures and backgrounds. These unique opportunities enable one-one coaching and mentorship in a nurturing dance environment. Our programs enrich the cultural landscape and foster artistic growth for our young dancers and help those who do not have the resources to participate.

NOW, THEREFORE, I, MARTY BLUM, by virtue of the authority vested in me as Mayor of the City of Santa Barbara, do hereby proclaim the week of December 7-14, 2009 as Santa Barbara Festival Ballet's "NUTCRACKER WEEK".

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Official Seal of the City of Santa Barbara, California to be affixed this 8th day of December 2009.


MARTY BLUM, MAYOR





CITY OF SANTA BARBARA CITY COUNCIL MINUTES

**SPECIAL MEETING
October 24, 2009**

MAIN LIBRARY, FAULKNER GALLERY, 40 E. ANAPAMU STREET

The special meeting of the City Council, scheduled for 9:00 a.m. on October 24, 2009, was cancelled due to lack of a quorum.

The next regular meeting of the City Council is scheduled for October 27, 2009, at 2:00 p.m. in the Council Chamber.

SANTA BARBARA CITY COUNCIL

SANTA BARBARA
CITY CLERK'S OFFICE

MARTY BLUM
MAYOR

ATTEST: _____
SUSAN TSCHECH, CMC
DEPUTY CITY CLERK



CITY OF SANTA BARBARA

CITY COUNCIL MINUTES

REGULAR MEETING

October 27, 2009

COUNCIL CHAMBER, 735 ANACAPA STREET

CALL TO ORDER

Mayor Marty Blum called the joint meeting of the Council and the Redevelopment Agency to order at 2:00 p.m. (The Finance Committee met at 1:00 p.m. The Ordinance Committee, which is ordinarily scheduled to meet at 12:30 p.m., did not meet on this date.)

PLEDGE OF ALLEGIANCE

Mayor Blum.

ROLL CALL

Councilmembers present: Iya G. Falcone (2:01 p.m.), Dale Francisco, Roger L. Horton, Grant House, Helene Schneider, Das Williams (2:02 p.m.), Mayor Blum.

Councilmembers absent: None.

Staff present: City Administrator James L. Armstrong, City Attorney Stephen P. Wiley, Deputy City Clerk Brenda Alcazar.

CHANGES TO AGENDA

City Administrator James Armstrong stated that an emergency item will be added to the agenda to follow the Consent Calendar.

PUBLIC COMMENT

Speakers: Ken Loch; Ruth Wilson; David Daniel Diaz; Debbie Cox Bultan, No on Measure B Coalition; Eva Inbar, COAST; Belen Seara, Executive Director of PUEBLO; Cruzito H. Cruz; Patrick Donahoe, Santa Barbara County Democratic Party; AIE, the Person (Kate Smith).

ITEM REMOVED FROM CONSENT CALENDAR

Councilmember Williams stated he would abstain from voting on the following Agenda Item due to a potential conflict of interest related to the location of his residence and the location of the subject property.

4. Subject: Approval Of Emergency Purchase Order For Alamar Street Bridge Repairs (530.04)

Recommendation: That Council:

- A. Retroactively approve the City's issuance of an emergency Purchase Order to Granite Construction Company in their low bid amount of \$80,382 for the Alamar Street Bridge Repair Project (Project), Bid No. 4947; and
- B. Authorize the Public Works Director to approve expenditures of up to \$45,000 for required extra work to divert water in Mission Creek from the work area and differences between estimated bid quantities and actual quantities measured for payment.

Documents:

October 27, 2009, report from the Public Works Director.

Motion:

Councilmembers Schneider/Horton to approve the recommendations.

Vote:

Unanimous voice vote (Abstention: Councilmember Williams).

CONSENT CALENDAR (Item Nos. 1 - 3 and 5 - 9)

The titles of the resolutions related to Item Nos. 2 and 5 were read.

Motion:

Councilmembers Schneider/Falcone to approve the Consent Calendar as recommended.

Vote:

Unanimous roll call vote.

1. Subject: Minutes

Recommendation: That Council waive the reading and approve the minutes of the special meeting of October 1, 2009.

Action: Approved the recommendation.

2. Subject: Amendment To Solid Waste Rates For The Business Sector (630.01)

Recommendation: That Council adopt, by reading of title only, A Resolution of the Council of the City of Santa Barbara Amending Resolution No. 09-043, Establishing Certain City Fees, Including Water and Wastewater Rates, to Establish New Rates for the Collection of Recyclables, Greenwaste, Foodscrap and Trash for Businesses Within the City of Santa Barbara.

Action: Approved the recommendation; Resolution No. 09-086 (October 27, 2009, report from the Interim Finance Director; proposed resolution).

3. Subject: Sole Source Vendor For The MyRide Bus Pass Program (150.05)

Recommendation: That Council:

- A. Authorize the City's General Services Manager to issue a Purchase Order to the Metropolitan Transit District (MTD) in the amount of \$165,000 pursuant to the Sole Source provisions of Santa Barbara Municipal Code Section 4.52.070 (K) in order to fund the cost of rides taken under the City's Bus Pass Programs for Fiscal Year 2010; and
- B. Authorize the City's General Services Manager to issue Purchase Orders and Change Orders to MTD for four consecutive years, for the 90-Day and MyRide Bus Pass Programs (MyRide), in amounts not to exceed the annual appropriated budget for the Programs, as approved by City Council.

Action: Approved the recommendations (October 27, 2009, report from the Public Works Director).

5. Subject: Administrative Citation Program Unpaid Fines Certification (640.09)

Recommendation: That Council adopt, by reading of title only, A Resolution of the Council of the City of Santa Barbara Certifying the Amounts of Liens/Special Assessments Sought to be Collected from Property Owners for Unpaid Administrative Fines.

Action: Approved the recommendation; Resolution No. 09-087 (October 27, 2009, report from the Community Development Director; proposed resolution).

6. Subject: Appropriation Of American Re-Investment And Recovery Act Of 2009 (ARRA) Funds For Homelessness Prevention And Rapid Re-Housing And Community Development Block Grant Recovery (660.04)

Recommendation: That Council:

- A. Increase appropriations and estimated revenues by \$1,200,000 in the Miscellaneous Grants Fund for the Homelessness Prevention and Rapid Re-Housing ARRA grant from the State Department of Housing and Community Development to fund the City of Santa Barbara Homelessness Prevention and Rapid Re-Housing Collaborative; and
- B. Increase appropriations and estimated revenues by \$289,274 in the Community Development Block Grant Fund for the Community Development Block Grant ARRA grant from the U.S. Department of Housing and Urban Development to fund three City projects.

Action: Approved the recommendations (October 27, 2009, report from the Community Development Director).

7. Subject: September 30, 2009, Investment Report And September 30, 2009, Fiscal Agent Report (260.02)

Recommendation: That Council:

- A. Accept the September 30, 2009, Investment Report; and
- B. Accept the September 30, 2009, Fiscal Agent Report.

Action: Approved the recommendations (October 27, 2009, report from the Interim Finance Director).

NOTICES

8. The City Clerk has on Thursday, October 22, 2009, posted this agenda in the Office of the City Clerk, on the City Hall Public Notice Board on the outside balcony of City Hall, and on the Internet.
9. Cancellation of the regular City Council and Redevelopment Agency meetings of November 3, 2009.

This concluded the Consent Calendar.

BUSINESS CONSIDERED EX AGENDA

15. Subject: Increase In Change Order Authority For The Upper Las Positas Creek Storm Water Improvement Project (540.14)

Recommendation: That Council:

- A. Find that a public emergency, as defined in Government Code section 54956.5, related to the Las Positas Creek Storm Water Project (Project) exists for the reasons stated in this Council Agenda Report and place this item on the Council Meeting Agenda of October 27, 2009, pursuant to the authority of subparagraph (b) of Government Code section 54954.2, a portion of the state Brown Act; and
- B. Approve additional change order expenditure authority for the Upper Las Positas Creek Storm Water Improvement Project Contract No. 23,117, in the amount of \$250,000, for a total change order expenditure authority of \$448,349.

Documents:

- October 27, 2009, report from the Public Works Director.
- October 27, 2009, PowerPoint presentation prepared and made by Staff.

Speakers:

Staff: City Administrator James Armstrong, City Attorney Stephen Wiley.

Motion:

Councilmembers Falcone/House to approve recommendation A.

Vote:

Unanimous voice vote.

Speakers (Cont'd):

Staff: Assistant Public Works Director/City Engineer Pat Kelly, Creeks Restoration/Clean Water Manager Cameron Benson.

Motion:

Councilmembers Francisco/Williams to approve recommendation B.

Vote:

Unanimous voice vote.

REPORT FROM THE FINANCE COMMITTEE

Finance Committee Chair Roger L. Horton reported that the Committee met to discuss the September 30, 2009, Investment Report and Fiscal Agent Report and recommended adjustments to the Fiscal Year 2009 budget. The Committee recommended that both items be forwarded to the Council (Agenda Item No. 7, approved by the Council as part of this agenda's Consent Calendar, and Item No. 12, respectively).

Item No. 10 appears in the Redevelopment Agency minutes.

CITY COUNCIL ADMINISTRATIVE AND ATTORNEY REPORTS

COMMUNITY DEVELOPMENT DEPARTMENT

11. Subject: Human Services And Community Development Block Grant Funding Application Release (230.06)

Recommendation: That Council:

- A. Review and provide input and direction on the current Community Development and Human Services Committee (CDHSC) program funding criteria and priorities for Fiscal Year 2011 Human Services and Community Development Block Grant funding decisions;
- B. Authorize staff to release the Fiscal Year 2011 funding application along with the committee review process and schedule for review of those applications; and
- C. Establish a funding commitment from the Fiscal Year 2011 General Fund in the amount of \$703,256 for the Human Services Program.

Documents:

- October 27, 2009, report from the Community Development Director.
- October 27, 2009, PowerPoint presentation prepared and made by Staff.

Speakers:

Staff: Community Development Programs Supervisor Sue Gray, City Administrator James Armstrong.

Motion:

Councilmembers Williams/Horton to approve recommendations B and C, and to direct staff to add any City-initiated policy move, such as the Youth Violence Task Force or the 12 recommended strategies to address homelessness issues, to the first priority for funding.

Vote:

Unanimous voice vote.

FINANCE DEPARTMENT

12. Subject: Fiscal Year 2009 General Fund Final Balancing And Adjustments (230.05)

Recommendation: That Council approve the adjustments to the Fiscal Year 2009 budget as shown in the Summary of Proposed Budget Adjustments in connection with the final balancing of Fiscal Year 2009.

(Cont'd)

12. (Cont'd)

Documents:

October 27, 2009, report from the Interim Finance Director.

Speakers:

Staff: Interim Finance Director Robert Samario.

Councilmember Williams left the meeting at 3:48 p.m.

Recess: 3:51 p.m. - 4:01 p.m. Councilmembers Falcone and Francisco were absent when the Council reconvened.

Councilmembers Falcone and Francisco returned to the meeting at 4:02 p.m.

Motion:

Councilmembers Horton/Falcone to approve the recommendation.

Vote:

Unanimous voice vote.

PUBLIC HEARINGS

13. Subject: Appeal Of The Fire And Police Commission's Approval With Conditions Of The Nightclub Dance Permit Renewal For Velvet Jones (520.01)

Recommendation: That Council deny the appeal of Craig Jenkins and uphold the Fire and Police Commission's decision to approve the nightclub dance permit renewal with certain conditions for Velvet Jones at 423 State Street.

Documents:

- October 27, 2009, report from the Police Chief.
- October 27, 2009, PowerPoint presentation prepared and made by Staff.
- October 10, 2008, Petition for Conditional License submitted by Craig Jenkins.

Public Comment Opened:

4:17 p.m.

Speakers:

- Staff: Police Captain Gilbert Torres, Police Sergeant Riley Harwood, Police Technician Holly Perea, City Attorney Stephen Wiley.
- Appellant/Applicant: Craig Jenkins.
- Members of the Public: Bob Stout, Neil Ablitt.

(Cont'd)

13. (Cont'd)

Public Comment Closed:
5:22 p.m.

Motion:

Councilmembers Williams/Falcone to deny the appeal and revise the conditions in the Council Agenda Report as follows: 1) Item No. 5 to be clarified to require security guards on duty whenever dancing is taking place; 2) Item No. 6 to state that security guards must be on duty during 18-and-over shows; and 3) Item No. 10 to state that dancing is prohibited after midnight instead of 11:00 p.m.

Amendment Motion:

Councilmember Williams/Falcone to deny the appeal and revise the conditions in the Council Agenda Report as follows: 1) Item No. 5 to be clarified to require security guards on duty whenever dancing is taking place; 2) Item No. 6 to state that security guards must be on duty during 18-and-over shows; 3) Item No. 10 to state that dancing is prohibited after midnight instead of 11:00 p.m.; and 4) add a new condition relating to the applicant's security plan and description of how the business will operate when persons under 21 are present, as presented to the Council.

Vote on Amendment Motion:
Unanimous voice vote.

RECESS

Mayor Blum recessed the meeting at 5:49 p.m. in order for the Council to reconvene in closed session for Agenda Item No. 14. Councilmember Horton left the meeting at 5:49 p.m.

CLOSED SESSIONS

14. Subject: Fire Chief Appointment (440.05)

Recommendation: That Council hold a closed session, pursuant to Section 54957 of the Government Code to consider a public employee appointment.

Title: Fire Chief

Scheduling: Duration, 20 minutes; anytime

Report: Anticipated

Documents:

October 27, 2009, report from the City Administrator.

Time:

5:50 p.m. - 6:01 p.m. Councilmember Horton was absent.

RECESS

6:01 p.m. - 6:02 p.m. Councilmembers Falcone, Horton and Williams were absent when the Council reconvened.

Announcement:

City Administrator James Armstrong reported that the Council met in closed session for Agenda Item No. 14, and that the Council voted unanimously to appoint Interim Fire Chief Andy DiMizio as Fire Chief. A formal swearing in will take place on November 12.

Councilmember Williams returned to the meeting at 6:03 p.m.

ADJOURNMENT

Mayor Blum adjourned the meeting at 6:04 p.m.

SANTA BARBARA CITY COUNCIL

SANTA BARBARA
CITY CLERK'S OFFICE

_____	ATTEST: _____
MARTY BLUM MAYOR	BRENDA ALCAZAR, CMC DEPUTY CITY CLERK



CITY OF SANTA BARBARA CITY COUNCIL MINUTES

REGULAR MEETING November 3, 2009 COUNCIL CHAMBER, 735 ANACAPA STREET

The regular meeting of the City Council, scheduled for 2:00 p.m. on November 3, 2009, was cancelled by the Council on June 30, 2009.

The next regular meeting of the City Council is scheduled for November 10, 2009, at 2:00 p.m. in the Council Chamber.

SANTA BARBARA CITY COUNCIL

SANTA BARBARA
CITY CLERK'S OFFICE

MARTY BLUM
MAYOR

ATTEST: _____
BRENDA ALCAZAR, CMC
DEPUTY CITY CLERK



CITY OF SANTA BARBARA CITY COUNCIL MINUTES

SPECIAL MEETING November 9, 2009 415 ALAN ROAD

CALL TO ORDER

Mayor Marty Blum called the meeting to order at 1:45 p.m.

ROLL CALL

Councilmembers present: Dale Francisco, Roger L. Horton, Grant House, Helene Schneider, Mayor Blum.

Councilmembers absent: Iya G. Falcone, Das Williams.

Staff present: City Administrator James L. Armstrong, City Attorney Stephen P. Wiley.

PUBLIC COMMENT

No one wished to speak.

NOTICES

The City Clerk has on Thursday, November 5, 2009, posted this agenda in the Office of the City Clerk, on the City Hall Public Notice Board on the outside balcony of City Hall, and on the Internet.

SITE VISIT

Subject: 415 Alan Road

Recommendation: That Council make a site visit to the property located at 415 Alan Road, which is the subject of an appeal hearing scheduled for November 10, 2009, at 2:00 p.m.

Speakers:

Staff: Associate Planner Kathleen Kennedy.

Discussion:

Staff briefly reviewed the proposed lot split. Council walked the site.

ADJOURNMENT

Mayor Blum adjourned the meeting at 1:55 p.m.

SANTA BARBARA CITY COUNCIL

SANTA BARBARA
CITY CLERK'S OFFICE

		ATTEST:	
_____			_____
MARTY BLUM			BRENDA ALCAZAR, CMC
MAYOR			DEPUTY CITY CLERK



CITY OF SANTA BARBARA CITY COUNCIL MINUTES

SPECIAL MEETING November 9, 2009 CITY HALL, ROOM 15, 735 ANACAPA STREET

CALL TO ORDER

Mayor Marty Blum called the meeting to order at 2:35 p.m.

ROLL CALL

Councilmembers present: Iya G. Falcone, Dale Francisco, Roger L. Horton, Grant House, Helene Schneider, Das Williams, Mayor Blum.

Councilmembers absent: None.

Staff present: City Administrator James L. Armstrong, City Attorney Stephen P. Wiley.

PUBLIC COMMENT

No one wished to speak.

NOTICES

The City Clerk has on Thursday, November 5, 2009, posted this agenda in the Office of the City Clerk, on the City Hall Public Notice Board on the outside balcony of City Hall, and on the Internet.

CLOSED SESSIONS

Subject: Conference With Labor Negotiator (440.05)

Recommendation: That Council hold a closed session, per Government Code Section 54957.6 to consider instructions to City negotiator Kristy Schmidt, Employee Relations Manager, regarding negotiations with the Police Officers Association.

Scheduling: Duration, 60 minutes; 2:30 p.m.

Report: None anticipated

Documents:

November 9, 2009, report from the Assistant City Administrator.

(Cont'd)

Subject: Conference With Labor Negotiator (440.05) (Cont'd)

Time:

2:35 p.m. – 2:45 p.m.

No report made.

ADJOURNMENT

Mayor Blum adjourned the meeting at 2:45 p.m.

SANTA BARBARA CITY COUNCIL

SANTA BARBARA
CITY CLERK'S OFFICE

_____	ATTEST: _____
MARTY BLUM	BRENDA ALCAZAR, CMC
MAYOR	DEPUTY CITY CLERK

ORDINANCE NO. _____

AN ORDINANCE OF THE COUNCIL OF THE CITY OF SANTA BARBARA APPROVING AMENDMENT NO. 1 TO THE LEASE AGREEMENT NO. 17,461, BETWEEN THE CITY OF SANTA BARBARA AND SANTA BARBARA CELLULAR SYSTEMS, LTD., LOCATED ON A PORTION OF THE VIC TRACE RESERVOIR PROPERTY (APN 035-033-013), TO ALLOW LESSEE THE RIGHT TO SUBLEASE UPON WRITTEN CONSENT FROM THE CITY OF SANTA BARBARA, AND AUTHORIZING THE PUBLIC WORKS DIRECTOR TO EXECUTE SAME

THE COUNCIL OF THE CITY OF SANTA BARBARA DOES ORDAIN AS FOLLOWS:

SECTION 1. In accordance with the provisions of Section 521 of the Charter of the City of Santa Barbara, this Amendment No. 1 to that certain Lease Agreement dated June 28, 1994, between the City of Santa Barbara and Santa Barbara Cellular Systems, Ltd, for the operation of a communications facility located at the Vic Trace Reservoir property (APN 35-33-013), Santa Barbara, California, is hereby approved.

RESOLUTION NO. _____

A RESOLUTION OF THE COUNCIL OF THE CITY OF SANTA BARBARA REQUESTING INITIATION OF PROCEEDINGS FOR A REORGANIZATION OF BOUNDARIES, ANNEXATION TO THE CITY OF SANTA BARBARA, DETACHMENT FROM THE SANTA BARBARA COUNTY FIRE PROTECTION DISTRICT, AND DETACHMENT FROM COUNTY SERVICE AREAS NO. 12 AND 32, FOR CERTAIN REAL PROPERTY PRESENTLY LOCATED AT 2030 LAS CANOAS ROAD, ASSESSOR'S PARCEL NUMBER 021-010-061

WHEREAS, the City accepted an application from Andrew and Kendra Feshbach, owners of 730 Las Canoas Place, and Andrew Effron, owner of 2030 Las Canoas Road, in order to process a request for: 1. Annexation of the subject property from the unincorporated area of Santa Barbara County to the City of Santa Barbara; 2. A General Plan Amendment Upon Annexation to add the property to the City's General Plan Map; 3. A Zoning Map Amendment Upon Annexation; and, 4. Hillside Design District Map Amendment to add the property to the Hillside Design District;

WHEREAS, the proposed reorganization has been reviewed and recommended for approval by the Planning Commission with respect to environmental and planning matters;

WHEREAS, the City has determined the application is exempt from environmental review pursuant to CEQA Guidelines Section 15305; and

WHEREAS, the City desires to initiate a proceeding for the adjustment of boundaries specified herein.

NOW, THEREFORE, the City Council does hereby resolve and order as follows:

SECTION 1. This proposal is made, and it is requested that proceedings be taken, pursuant to the Cortese/Knox/Hertzberg Local Government Reorganization Act of 2000, commencing with Section 56000 of the California Government Code.

SECTION 2. This proposal is a reorganization and consists of the following changes of organization:

- a. Annexation to the City of Santa Barbara;
- b. Detachment from the Santa Barbara County Fire Protection District;
- c. Detachment from County Service Area No. 12;
- d. Detachment from County Service Area No. 32.

SECTION 3. A description of the boundaries and a map of the affected territory are set forth in Exhibits A and B, attached hereto and by reference incorporated herein.

SECTION 4. It is desired that the proposal be subject to the following term and condition:

The affected territory will be subject to the existing general bonded indebtedness of the City of Santa Barbara.

SECTION 5. Upon annexation to the City, the annexed area will be designated on the General Plan as Major Hillside.

SECTION 6. Upon annexation to the City, the annexed area will be zoned A-1, One-Family Residence Zone.

SECTION 7. Upon annexation to the City, the annexed area will be included in the Hillside Design District.

SECTION 8. The reason for the proposal is to provide services to the subject property in a manner considered in the best interests of the affected area and the total organization of local governmental agencies within Santa Barbara County.

SECTION 9. The proceeding is subject to the terms and conditions approved by the Local Agency Formation Commission.

SECTION 10. The regular County assessment roll will be utilized.

SECTION 11. Consent is given to the waiver of conducting authority proceedings, with the condition that LAFCO does not subject completion of this annexation to the initiation or completion of other annexations.

SECTION 12. The City Clerk is directed to transmit two (2) certified copies of this resolution to the Santa Barbara Local Agency Formation Commission.

LEGAL DESCRIPTION:

(PARCEL TWO TO PARCEL ONE)

THAT PORTION OF PARCEL A OF PARCEL MAP No. 12,130 RECORDED IN BOOK 15, PAGE 54 OF PARCEL MAPS, COUNTY OF SANTA BARBARA, STATE OF CALIFORNIA, LYING SOUTHERLY OF THE FOLLOWING DESCRIBED LINE:

BEGINNING AT A POINT ON THE WESTERLY LINE OF SAID PARCEL A, WHICH BEARS N05°13'20" 193.30 FEET, FROM THE SOUTHWESTERLY CORNER OF SAID PARCEL A;

THENCE 1ST SOUTH 62°08'30" EAST, 51.47 FEET TO THE BEGINNING OF A TANGENT CURVE TO THE LEFT;

THENCE 2ND ALONG THE ARC OF SAID TANGET CURVE TO THE LEFT, WHICH HAS A RADIUS OF 125.00 FEET AND A DELTA OF 53°03'00", FOR A DISTANCE OF 115.74 FEET;

THENCE 3RD NORTH 64°48'30" EAST, 88.80 FEET TO THE BEGINNING OF A TANGENT CURVE TO THE RIGHT;

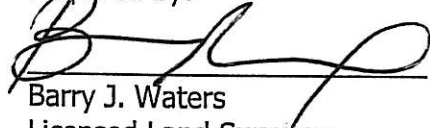
THENCE 4TH ALONG THE ARC OF SAID TANGET CURVE TO THE RIGHT, WHICH HAS A RADIUS OF 155.00 FEET AND A DELTA OF 27°08'00", FOR A DISTANCE OF 73.40 FEET;

THENCE 5TH SOUTH 88°03'30" EAST, 87.38 FEET, TO A POINT ON THE EASTERLY LINE OF SAID PARCEL A WHICH BEARS N03°42'30"E 211.12 FEET FROM THE SOUTHEASTERLY CORNER OF SAID PARCEL A.

END OF DESCRIPTION

CALCULATED AREA: 74,156/1.70 acres more or less

Prepared by:



Barry J. Waters
Licensed Land Surveyor
PLS 6419, expires 12-31-08



LEGAL DESCRIPTION:
(ADJUSTED PARCEL ONE)

PARCEL 1 OF PARCEL MAP No. 20,498 RECORDED IN BOOK 45, PAGE 24 OF PARCEL MAPS, COUNTY OF SANTA BARBARA, STATE OF CALIFORNIA, INCLUDING THE FOLLOWING:

THAT PORTION OF PARCEL A OF PARCEL MAP No. 12,130 RECORDED IN BOOK 15, PAGE 54 OF PARCEL MAPS, COUNTY OF SANTA BARBARA, STATE OF CALIFORNIA, LYING SOUTHERLY OF THE FOLLOWING DESCRIBED LINE:

BEGINNING AT A POINT ON THE WESTERLY LINE OF SAID PARCEL A, WHICH BEARS N05°13'20" 193.30 FEET, FROM THE SOUTHWESTERLY CORNER OF SAID PARCEL A;

THENCE 1ST SOUTH 62°08'30" EAST, 51.47 FEET TO THE BEGINNING OF A TANGENT CURVE TO THE LEFT;

THENCE 2ND ALONG THE ARC OF SAID TANGENT CURVE TO THE LEFT, WHICH HAS A RADIUS OF 125.00 FEET AND A DELTA OF 53°03'00", FOR A DISTANCE OF 115.74 FEET;


THENCE 3RD NORTH 64°48'30" EAST, 88.80 FEET TO THE BEGINNING OF A TANGENT CURVE TO THE RIGHT;

THENCE 4TH ALONG THE ARC OF SAID TANGENT CURVE TO THE RIGHT, WHICH HAS A RADIUS OF 155.00 FEET AND A DELTA OF 27°08'00", FOR A DISTANCE OF 73.40 FEET;

THENCE 5TH SOUTH 88°03'30" EAST, 87.38 FEET, TO A POINT ON THE EASTERLY LINE OF SAID PARCEL A WHICH BEARS N03°42'30"E 211.12 FEET FROM THE SOUTHEASTERLY CORNER OF SAID PARCEL A.

END OF DESCRIPTION

Prepared by:


Barry J. Waters
Licensed Land Surveyor
PLS 6419, expires 12-31-08



LEGAL DESCRIPTION:
(ADJUSTED PARCEL TWO)

PARCEL A OF PARCEL MAP No. 12,130 RECORDED IN BOOK 15, PAGE 54 OF PARCEL MAPS, COUNTY OF SANTA BARBARA, STATE OF CALIFORNIA, EXCEPTING THEREFROM THE FOLLOWING:

THAT PORTION OF PARCEL A OF PARCEL MAP No. 12,130 RECORDED IN BOOK 15, PAGE 54 OF PARCEL MAPS, COUNTY OF SANTA BARBARA, STATE OF CALIFORNIA, LYING SOUTHERLY OF THE FOLLOWING DESCRIBED LINE:

BEGINNING AT A POINT ON THE WESTERLY LINE OF SAID PARCEL A, WHICH BEARS N05°13'20" 193.30 FEET, FROM THE SOUTHWESTERLY CORNER OF SAID PARCEL A;

THENCE 1ST SOUTH 62°08'30" EAST, 51.47 FEET TO THE BEGINNING OF A TANGENT CURVE TO THE LEFT;

THENCE 2ND ALONG THE ARC OF SAID TANGET CURVE TO THE LEFT, WHICH HAS A RADIUS OF 125.00 FEET AND A DELTA OF 53°03'00", FOR A DISTANCE OF 115.74 FEET;

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THENCE 4TH ALONG THE ARC OF SAID TANGET CURVE TO THE RIGHT, WHICH HAS A RADIUS OF 155.00 FEET AND A DELTA OF 27°08'00", FOR A DISTANCE OF 73.40 FEET;

THENCE 5TH SOUTH 88°03'30" EAST, 87.38 FEET, TO A POINT ON THE EASTERLY LINE OF SAID PARCEL A WHICH BEARS N03°42'30"E 211.12 FEET FROM THE SOUTHEASTERLY CORNER OF SAID PARCEL A.

END OF DESCRIPTION

Prepared by:

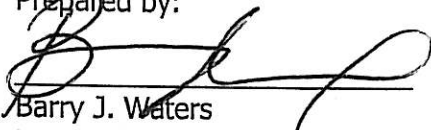

Barry J. Waters
Licensed Land Surveyor
PLS 6419, expires 12-31-08

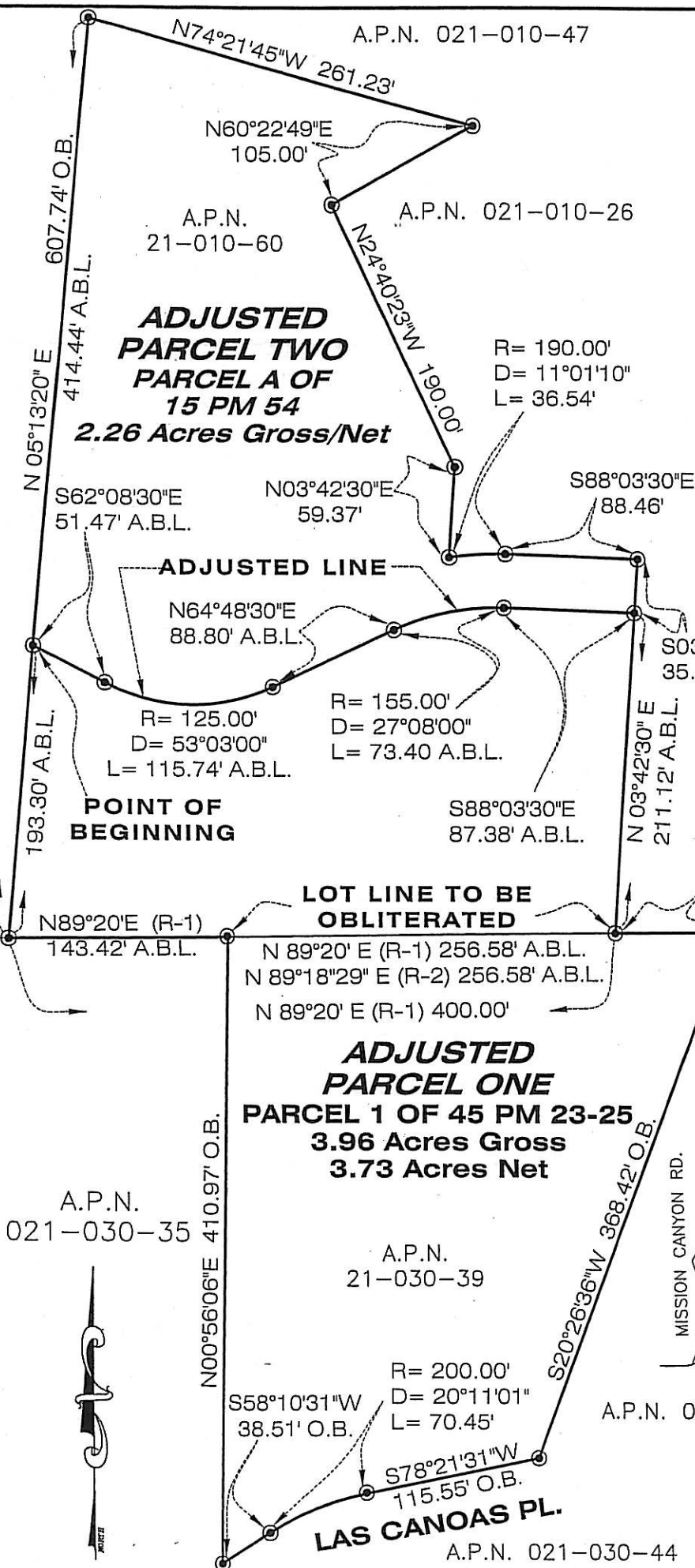
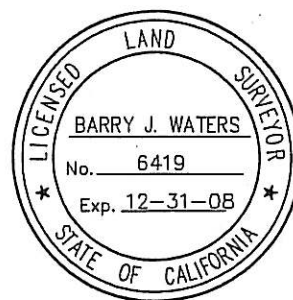


EXHIBIT "B" LOT LINE ADJUSTMENT

730 LAS CANOAS PLACE &
2030 LAS CANOAS ROAD
~ CITY OF SANTA BARBARA ~
~ COUNTY OF SANTA BARBARA ~
~ STATE OF CALIFORNIA ~
APN's 021-030-039 & 021-010-060

MAP LEGEND

R-1 = P.M. No. 12,130 Book 15, Page 54
R-2 = P.M. No. 20,498, Book 45, Pages 23-25





Agenda Item No. _____

File Code No. 680.04

CITY OF SANTA BARBARA

COUNCIL AGENDA REPORT

AGENDA DATE: December 8, 2009

TO: Mayor and Councilmembers

FROM: Planning Division, Community Development Department

SUBJECT: Revised Resolution For The 2030 Las Canoas Road Annexation

RECOMMENDATION:

That Council adopt, by reading of title only, a Resolution of the Council of the City of Santa Barbara Requesting Initiation of Proceedings for a Reorganization of Boundaries, Annexation to the City of Santa Barbara, Detachment from the Santa Barbara County Fire Protection District, and Detachment from County Service Areas No. 12 and 32, for Certain Real Property Presently Located at 2030 Las Canoas Road, Assessor's Parcel Number 021-010-061.

DISCUSSION:

On September 29, 2009, Council adopted a resolution requesting initiation of proceedings for a reorganization of boundaries, annexation to the City of Santa Barbara, and detachment from the Santa Barbara County Fire Protection District, for property located at 2030 Las Canoas Road. After the resolution was adopted, Staff learned that automatic detachments from County Service Areas no longer occur when land is annexed to a city and that the detachment needs to be specifically included in the reorganization. Therefore, the previously adopted resolution has been revised to include a detachment from County Service Area No. 12 (Mission Canyon Sanitation), which collects sewage effluent and inspects septic tanks and County Service Area No. 32 (Unincorporated Area), which provides law enforcement protection. The property upon annexation will receive these essential services from the City. No other changes have been made to the resolution.

ATTACHMENT: Council Agenda Report, 9/29/09 (without Ordinance & Resolutions)

PREPARED BY: Kathleen Kennedy, Associate Planner

SUBMITTED BY: Paul Casey, Community Development Director

APPROVED BY: City Administrator's Office



CITY OF SANTA BARBARA

COUNCIL AGENDA REPORT

AGENDA DATE: September 29, 2009

TO: Mayor and Councilmembers

FROM: Planning Division, Community Development Department

SUBJECT: Introduction Of Ordinance And Resolutions For The 2030 Las Canoas Road Annexation

RECOMMENDATION: That Council:

- A. Introduce and subsequently adopt, by reading of title only, An Ordinance of the Council of the City of Santa Barbara Amending Chapter 28.12 (Zone Map) of Title 28 of the Municipal Code Pertaining to the Zoning of Certain Real Property Upon Annexation to Assessor's Parcel Number 021-030-039 located at 730 Las Canoas Place;
- B. Adopt, by reading of title only, A Resolution of the Council of the City of Santa Barbara Requesting Initiation of Proceedings for a Reorganization of Boundaries, Annexation to the City of Santa Barbara, and Detachment from the Santa Barbara County Fire Protection District, for Certain Real Property Presently Located at 2030 Las Canoas Road, Assessor's Parcel Number 021-010-061;
- C. Adopt, by reading of title only, A Resolution of the Council of the City of Santa Barbara Amending the General Plan Map of the City of Santa Barbara Pertaining to the Designation of Certain Real Property Upon Annexation to Assessor's Parcel Number 021-030-039 Located at 730 Las Canoas Place; and
- D. Adopt, by reading of title only, A Resolution of the Council of the City of Santa Barbara Amending the Hillside Design District Map of the City of Santa Barbara Pertaining to the Designation of Certain Real Property Upon Annexation to Assessor's Parcel Number 021-030-039 Located at 730 Las Canoas Place.

EXECUTIVE SUMMARY:

On November 9, 2006, the Planning Commission approved a lot line adjustment between 730 Las Canoas Place (APN 021-030-039), a parcel located in the City, and 2030 Las Canoas Road (APN 021-010-060 & -061), a parcel located in the unincorporated area of Santa Barbara County, contingent upon the annexation of that portion of 2030 Las Canoas Road that would be added to the 730 Las Canoas Place parcel. A map is attached.

The 730 Las Canoas Place parcel has a City Zoning designation of A-1, One-Family Residence and a General Plan designation of Major Hillside. The 2030 Las Canoas Road parcel has an existing County Zoning designation of AG 1-10 (Agriculture with a minimum lot size of 10 acres gross land area per dwelling unit) and Mission Area Design Overlay.

The proposal is a request to introduce and subsequently adopt the Zoning Map Amendment and adopt Resolutions to initiate proceedings for a reorganization of boundaries, annexation to the City and detachment from the County Fire Protection District, as well as amend the General Plan Map and Hillside District Map.

The annexation application complies with the City Council Resolution 96-118, which requires that the subject parcels that are within the City's Sphere of Influence and are adjacent to the existing City boundaries. Therefore, Staff recommends that the area proposed to be annexed to the City have a Zoning Designation of A-1, One-Family Residence and a General Plan Designation of Major Hillside, to match the designations of the 730 Las Canoas Place parcel. Additionally, staff recommends that the annexed area be added to the City's Hillside Design District.

DISCUSSION:

Background

In 1989, the owners of 2030 Las Canoas Road (APN 021-010-060 & -061), a parcel located in the unincorporated area of Santa Barbara County, granted a landscape and use easement, consisting of approximately 1.70 acres of land (portion designated as APN 021-010-061), to the owners of 730 Las Canoas Place (APN 021-030-039), a parcel located in the City.

On September 4, 2003, at the request of Andrew and Kendra Feshbach, owners of 730 Las Canoas Place, and Andrew Effron, owner of 2030 Las Canoas Road, the Planning Commission initiated an annexation that included the entire 2030 Las Canoas Road parcel. At the hearing, the Planning Commission recommended that any future lot line adjustment be undertaken in such a way that there be no potential for the lots to be further subdivided.

Subsequently, the proposed project was revised to include only the easement area of the 2030 Las Canoas Road parcel. On November 9, 2006, the Planning Commission approved a lot line adjustment between the two properties that would result in the easement area becoming part of the 730 Las Canoas Place parcel, contingent upon the easement area being annexed to the City.

The lot line adjustment would not result in the potential for either parcel to be further subdivided or have an increase in development potential for additional or secondary dwelling units. The only development potential that each property may have is an addition to the existing residence or the demolition and rebuilding of new residences since only one

residence would be allowed per lot. Additionally, a lot split application for the 730 Las Canoas Place parcel is highly unlikely given that a lot area modification would be required and staff would not be in support of the request. After the lot line adjustment, 2030 Las Canoas Road would have a lot size of 2.26 acres and 730 Las Canoas Place would have a lot size of 3.96 acres. The proposed lot sizes are consistent with those of other existing lots in the area and cannot be further split, based on the zoning and slope of the lots.

The Planning Commission action also recommended that the City Council approve the Annexation, Zoning Map Amendment, General Plan Amendment, and Hillside Design District Map Amendment.

Although the 2030 Las Canoas Road parcel is one legal lot, it has two separate assessor's parcel numbers, as shown above. The easement area subject to the annexation is described as APN 021-010-061. Following the 2006 Planning Commission hearing, the project was subject to a long delay due to the County of Santa Barbara requiring that the property owner proceed with the merger of the two assessor's parcels. The merger has been recorded; however, as of this writing, a new assessor's parcel number has not been assigned. The legal descriptions of the area to be annexed, as well as the adjusted parcels, are included in the attached Ordinance and Resolutions.

Project Description

The current proposal is a request to introduce and subsequently adopt the Zoning Map Amendment and adopt Resolutions to initiate proceedings for a reorganization of boundaries, annexation to the City and detachment from the County Fire Protection District, as well as amend the General Plan Map and Hillside District Map.

The 2030 Las Canoas Road parcel has an existing County Zoning designation of AG 1-10 (Agriculture with a minimum lot size of 10 acres gross land area per dwelling unit) and Mission Area Design Overlay. The 730 Las Canoas Place parcel has a City Zoning designation of A-1, One-Family Residence and a General Plan designation of Major Hillside.

Staff recommends that the area proposed to be annexed to the City have a Zoning Designation of A-1, One-Family Residence and a General Plan Designation of Major Hillside, to match the designations of the 730 Las Canoas Place parcel. Additionally, staff recommends that the annexed area be added to the City's Hillside Design District.

Both properties currently contain a single-family residence, and no additional development is proposed on either property. Both parcels would continue to be served by City water and by private septic systems, as there are no city sewer lines in the vicinity.

Annexation Request

City Council Resolution 96-118 establishes procedures for reviewing applications for annexation of territory to the City of Santa Barbara. This resolution limits the acceptance of applications requesting the initiation of annexations to parcels that are within the City's Sphere of Influence and are adjacent to the existing City boundaries. The application complies with the procedures and requirements established in Resolution 96-118.

Environmental Review

The Environmental Analyst has determined that the project qualifies for an exemption per California Environmental Quality Act (CEQA) Section 15305 (3) on minor lot line adjustments.

Next Steps

If the annexation is approved by Council, the proposed Zoning Ordinance Amendment will return to Council for a second reading and adoption on October 6, 2009. Following action by the Council, City staff will transmit the application for the annexation to LAFCO. Also, a property tax exchange agreement between the City and County will be prepared after the application is submitted to LAFCO. Following LAFCO consideration and approval of these actions, LAFCO will transmit a Certificate of Completion to the County Recorder and a Statement of Boundary Change to the State Board of Equalization.

BUDGET/FINANCIAL INFORMATION:

Property Tax

State law governing annexations requires that the City and the County negotiate a tax exchange agreement. The tax exchange agreement determines what portion of the property tax paid on the property will be allocated to the City. After the annexation application is submitted to LAFCO, the tax exchange agreement will be negotiated and subsequently, a resolution providing for a negotiated exchange of property tax revenues will be prepared for Council approval.

Annexation Buy-in Fees

Chapter 4.04 of the Municipal Code (Annexation and Charges) requires owners of annexed property to pay an annexation "buy-in" fee for potential units to be developed on the property. The annexation fee amount is set by City Council Resolution based on the value of municipal improvements and the acreage of land in the City. Because the project will not result in the addition of any new units on the site, no buy-in fees are required. In addition, the property is already served by city water and has no sewer service.

RECOMMENDATION:

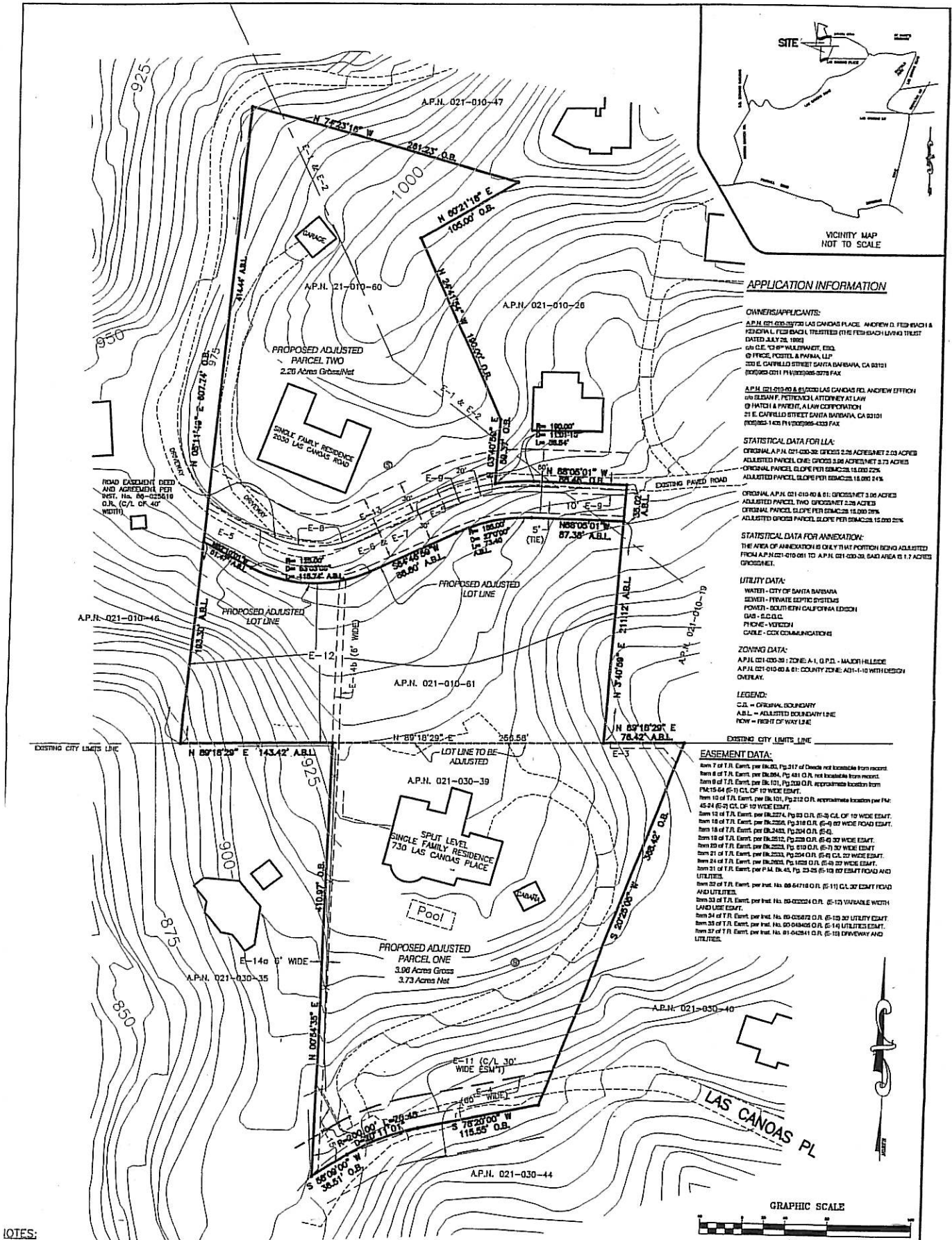
The project is consistent with the current annexation requirements in that the parcel is located within the City's Sphere of Influence and adjacent to City boundaries. The proposed Zoning and General Plan designations can be found consistent with the pattern of development of the existing neighborhood. Therefore, staff recommends that Council consent to the reorganization request including the General Plan, Zoning Map, and Hillside Design District Map Amendments, introduce and subsequently adopt the ordinance, and adopt the resolutions.

ATTACHMENT: Annexation and Tentative Lot Line Adjustment Map

PREPARED BY: Kathleen Kennedy, Associate Planner

SUBMITTED BY: Paul Casey, Community Development Director

APPROVED BY: City Administrator's Office



APPLICATION INFORMATION

OWNERS/APPLICANTS:
 A.P.N. 021-010-47 & 021-010-60 LAS CANOAS PLACE, ANDREW D. FISHBACH & KATHARINE L. FISHBACH, TRUSTEES (THE FISHBACH LAND TRUST)
 DATED JULY 26, 1995
 200 E. CARLETO STREET SANTA BARBARA, CA 93101
 (805) 962-0211 FAX (805) 962-0278 FAX

A.P.N. 021-010-26 & 021-010-46 LAS CANOAS PLACE, ANDREW EFFRON
 200 E. CARLETO STREET, ATTORNEY AT LAW
 200 E. CARLETO STREET SANTA BARBARA, CA 93101
 (805) 962-1428 FAX (805) 962-4323 FAX

STATISTICAL DATA FOR LLA:
 ORIGINAL A.P.N. 021-010-26 OFFICES 2.26 ACRES NET 2.23 ACRES
 ADJUSTED PARCEL ONE OFFICES 2.26 ACRES NET 2.17 ACRES
 ORIGINAL PARCEL SLOPE PER DEMARCUS 15.000 22%
 ADJUSTED PARCEL SLOPE PER DEMARCUS 15.000 24%

ORIGINAL A.P.N. 021-010-46 OFFICES 3.96 ACRES
 ADJUSTED PARCEL TWO OFFICES 3.73 ACRES
 ORIGINAL PARCEL SLOPE PER DEMARCUS 15.000 20%
 ADJUSTED PARCEL SLOPE PER DEMARCUS 15.000 22%

STATISTICAL DATA FOR ANNEXATION:
 THE AREA OF ANNEXATION IS ONLY THAT PORTION BEING ADJUSTED
 FROM A.P.N. 021-010-46 TO A.P.N. 021-030-39, SAID AREA IS 1.7 ACRES
 GROSS NET.

UTILITY DATA:
 WATER - CITY OF SANTA BARBARA
 SEWER - PRIVATE SEPTIC SYSTEMS
 POWER - SOUTH KERN CALIFORNIA Edison
 GAS - S.D.G.S.D.
 PHONE - VOICED
 CABLE - COX COMMUNICATIONS

ZONING DATA:
 A.P.N. 021-010-46 & 021-010-60: ZONE A-1, D.P.D., MAJOR HOUSE
 A.P.N. 021-010-26 & 021-010-46: ZONE A-1-10 WITH DESIGN
 OVERLAY.

LEGEND:
 C.L. = ORIGINAL BOUNDARY
 A.B.L. = ADJUSTED BOUNDARY LINE
 D.W. = RIGHT OF WAY LINE

EASEMENT DATA:
 Item 7 of T.R. Exempt, per Bk. 101, Pg. 217 of Deeds not includable from recent.
 Item 8 of T.R. Exempt, per Bk. 101, Pg. 481 O.R. not includable from recent.
 Item 9 of T.R. Exempt, per Bk. 101, Pg. 538 O.R. not includable from recent.
 Item 10 of T.R. Exempt, per Bk. 101, Pg. 538 O.R. not includable from recent.
 Item 11 of T.R. Exempt, per Bk. 101, Pg. 538 O.R. not includable from recent.
 Item 12 of T.R. Exempt, per Bk. 101, Pg. 538 O.R. not includable from recent.
 Item 13 of T.R. Exempt, per Bk. 101, Pg. 538 O.R. not includable from recent.
 Item 14 of T.R. Exempt, per Bk. 101, Pg. 538 O.R. not includable from recent.
 Item 15 of T.R. Exempt, per Bk. 101, Pg. 538 O.R. not includable from recent.
 Item 16 of T.R. Exempt, per Bk. 101, Pg. 538 O.R. not includable from recent.
 Item 17 of T.R. Exempt, per Bk. 101, Pg. 538 O.R. not includable from recent.
 Item 18 of T.R. Exempt, per Bk. 101, Pg. 538 O.R. not includable from recent.
 Item 19 of T.R. Exempt, per Bk. 101, Pg. 538 O.R. not includable from recent.
 Item 20 of T.R. Exempt, per Bk. 101, Pg. 538 O.R. not includable from recent.
 Item 21 of T.R. Exempt, per Bk. 101, Pg. 538 O.R. not includable from recent.
 Item 22 of T.R. Exempt, per Bk. 101, Pg. 538 O.R. not includable from recent.
 Item 23 of T.R. Exempt, per Bk. 101, Pg. 538 O.R. not includable from recent.
 Item 24 of T.R. Exempt, per Bk. 101, Pg. 538 O.R. not includable from recent.
 Item 25 of T.R. Exempt, per Bk. 101, Pg. 538 O.R. not includable from recent.
 Item 26 of T.R. Exempt, per Bk. 101, Pg. 538 O.R. not includable from recent.
 Item 27 of T.R. Exempt, per Bk. 101, Pg. 538 O.R. not includable from recent.
 Item 28 of T.R. Exempt, per Bk. 101, Pg. 538 O.R. not includable from recent.
 Item 29 of T.R. Exempt, per Bk. 101, Pg. 538 O.R. not includable from recent.
 Item 30 of T.R. Exempt, per Bk. 101, Pg. 538 O.R. not includable from recent.
 Item 31 of T.R. Exempt, per Bk. 101, Pg. 538 O.R. not includable from recent.
 Item 32 of T.R. Exempt, per Bk. 101, Pg. 538 O.R. not includable from recent.
 Item 33 of T.R. Exempt, per Bk. 101, Pg. 538 O.R. not includable from recent.
 Item 34 of T.R. Exempt, per Bk. 101, Pg. 538 O.R. not includable from recent.
 Item 35 of T.R. Exempt, per Bk. 101, Pg. 538 O.R. not includable from recent.
 Item 36 of T.R. Exempt, per Bk. 101, Pg. 538 O.R. not includable from recent.
 Item 37 of T.R. Exempt, per Bk. 101, Pg. 538 O.R. not includable from recent.

NOTES:
 1. TOPOGRAPHY IS CITY OF SANTA BARBARA PUBLIC WORKS 1" = 100' AERIAL
 TOPOGRAPHY PER 1995 DIGITAL BASE MAP WITH DEC. 2000 UPDATE.
 2. **DATE:** USCAD5 NAVD83 DATUM.
 3. **BOUNDARY:** BASIS OF SURVEY IS RECORD PER PARCEL MAP BOOK 41, PAGE 96,
 PARCEL MAP BOOK 15, PG. 54 S.B. Co.
 4. **EASEMENTS:** EASEMENTS ARE PLOTTED PER FIRST AMERICAN TITLE COMPANY REPORT
 1. 4201-803875 MARCH 25, 2004. ONLY EASEMENTS AFFECTING THE FEE PARCELS OF
 THE TITLE REPORT (PCL. 1 AND PCL. 4) ARE PLOTTED. T.R. = TITLE REPORT
 ORIGINAL FISHBACH PROPERTY: A.P.N. 021-030-39 = 2.26 ACRES
 ORIGINAL EFFRON PROPERTY: A.P.N.s 021-010-60 & 61 = 3.96 ACRES.
 D = INDICATES APPROXIMATE LOCATION OF SEPTIC SYSTEM.

REQUEST CERTIFICATE:
 I HEREBY APPLY FOR THE APPROVAL OF A LOT LINE
 ADJUSTMENT BETWEEN THE REAL PROPERTIES SHOWN ON
 THIS PLAN, AS WELL AS THE ANNEXATION OF THE
 ADJUSTED AREA TO THE CITY OF SANTA BARBARA, AND
 CERTIFY THAT I AM THE AUTHORIZED AGENT OF SAID
 OWNER, AND THAT THE INFORMATION SHOWN HEREON IS
 TRUE AND CORRECT TO THE BEST OF OUR KNOWLEDGE
 AND BELIEF.
 C. E. WATERS, Esq. (AGENT) DATE 10/31/06
 C.E. WATERS, Esq. (AGENT)
 Price, Foster & Parnia, LLP
 200 E. Carleto St. Suite 400
 Santa Barbara, CA 93101
 (805) 962-0211 FAX (805) 962-0278 FAX

**ANNEXATION & TENTATIVE LOT LINE
 ADJUSTMENT EXHIBIT MAP**
 BETWEEN 730 LAS CANOAS PLACE & 2030 LAS CANOAS ROAD
 A.P.N. No. 021-030-39 & A.P.N. 021-010-60 & 61
 BEING PARCEL 1 OF P.M. DL. 4179, 98 AND PARCEL A OF P.M. DL. 10, PG. 04
 CITY OF SANTA BARBARA ~ COUNTY OF SANTA BARBARA ~ STATE OF CALIFORNIA
 ~ OCTOBER 2006 ~

PREPARED BY: **WATERS LAND SURVEYING INC.**
 3055 HOLLYHURST AVENUE SUITE 7 & 8
 GOLETA, CALIFORNIA 93121 (805) 962-4426

DATE: MARCH 2003
 UPDATE: JULY 2003
 UPDATE: APRIL 2004
 UPDATE: JULY 2004
 UPDATE: OCTOBER 2005
 UPDATE: JANUARY 2006

DATE: MARCH 2006
 UPDATE: AUGUST 2006
 UPDATE: OCTOBER 2006

3055 HOLLYHURST AVENUE SUITE 7 & 8
 GOLETA, CALIFORNIA 93121 (805) 962-4426



CITY OF SANTA BARBARA

COUNCIL AGENDA REPORT

AGENDA DATE: December 8, 2009

TO: Mayor and Councilmembers

FROM: Engineering Division, Public Works Department

SUBJECT: Increase In Change Order Authority For The Upper Las Positas Creek Restoration And Storm Water Improvement Project

RECOMMENDATION: That Council:

- A. Approve an increase to the change order authority for Contract No. 23,117 with Shaw Contracting, Inc. (Shaw) for the Upper Las Positas Creek Restoration and Storm Water Improvement Project (Project) in the amount of \$400,000 for a total change order authority of \$848,349, pursuant to Santa Barbara Municipal Code Sections 4.52.080 and 9.116.060 relating to emergency purchases, to cover the cost of emergency work currently underway; and
- B. Approve an increase in change order authority with Fugro West, Inc. (Fugro), Contract No. 23,119, in the amount of \$35,000, for material testing and inspection for the Project, for a total change order authority of \$37,820.

DISCUSSION:

The Upper Las Positas Creek Storm Water Improvement Project consists of construction of a series of bioswales and detention systems to detain and filter polluted storm water and incidental urban runoff within the area of the City Golf Course. The Project is planned to improve the quality of water entering Las Positas Creek and the Arroyo Burro Estuary. It is also anticipated that the storm flow rates into, and erosion of Las Positas Creek will be reduced.

The Santa Barbara Golf Club (Golf Course), a City-owned open space, is a major confluence for storm water and urban runoff from the neighboring areas of San Jose Road, Samarkand, and Adams Elementary School, and is an ideal place to treat water prior to entering the City creek system. Council awarded the construction contract for the Project on May 19, 2009, and work began on June 29, 2009.

The contract with Shaw had two work elements: the Upper Las Positas Creek work on the Golf Course and specific improvements related only to the Golf Course, namely new concrete cart paths and the relocation of two greens. The Creeks contractual elements totaled \$1,520,672.10 (with the original Change Order authority) and the Golf Course

Council Agenda Report

Increase In Change Order Authority For The Upper Las Positas Creek Restoration and Storm Water Improvement Project

December 8, 2009

Page 2

contractual element totaled \$469,479.40 (with Change Order authority). These elements totaled \$1,990,151.50. The discussion for this report only focuses on the Creeks elements of work.

On October 27, 2009, Council approved adding \$250,000 to the change order authority for Shaw's contract to address damages resulting from an extraordinary storm event that occurred on October 12 and 13, 2009, resulting in approximately 3.5 inches of rain. The erosion control, planting, grassing, and irrigation had yet to be completed in some areas, leaving portions of the Golf Course vulnerable during the storm event. Design deficiencies were revealed in several Project components and much of the construction site was damaged. Damages included the failure of the detention basins piping and severe scouring of flow channels. In the October 27, 2009 report, staff indicated that the City staff might need to return to Council for additional Change Order authority since we had not been able to complete a full assessment of damages.

City staff has been working closely with the design engineer and the construction contractor to address the damage. At this time, additional funds are necessary to complete the work.

Since we are entering the rainy season, Public Works and Parks and Recreation Department staff believe it is essential to move as quickly as possible to complete the Project, in particular the two detention basins. Failure to implement remedies could lead to the loss of work completed to date, damage to neighboring properties, and damage to the Golf Course. As such, staff determined the situation to be an emergency pursuant to Municipal Code Section 4.52.080 and authorized the contractor to proceed with emergency work to complete repairs and reconstruction work, which is protecting the site. The cost of the additional emergency work is \$400,000.

A change order authority increase of \$400,000 will bring the total change order authority with Shaw to \$848,349.

In addition, \$35,000 is requested in extra services from Fugro for a material (soils) testing special inspection to resolve issues related to the damage caused by the storm event.

Legal and financial responsibility for the damage resulting from the storm event has not been fully determined. There are indications that the damage was enhanced by possible design and construction deficiencies, which we anticipate will defer liability for some of these extra costs to the Designer (the Wallace Group) and to the Contractor (Shaw).

The following chart summarizes the proposed contract Change Order expenditures:

CHANGE ORDER FUNDING SUMMARY

Original Authorized Change Order Allowance	\$198,349
Additional Allowance (October 27, 2009 CAR)	\$250,000
Emergency Additional Allowance	\$400,000
Total Proposed Change Order Authority	\$848,349

The following chart summarizes the contract authorizations:

CONTRACT FUNDING SUMMARY

	Basic Contract	Change Funds	Total
Shaw Construction	\$1,322,323.10	\$198,349.00	\$1,520,672.10
Shaw Additional Authorization (10/27/09)	-0-	\$250,000.00	\$250,000.00
Shaw Additional Authorization (12/8/09 Proposed)	-0-	\$400,000.00	\$400,000.00
Fugro	\$28,280.00	\$2,280.00	\$30,560.00
Fugro Additional Authorization (12/8/09 Proposed)	-0-	\$35,000.00	\$35,000.00
Total Recommended Authorization	\$1,350,603.10	\$885,629.00	\$2,236,232.10

BUDGETARY INFORMATION:

Funding for this Project is available in the Creeks Restoration/Water Quality Improvement Capital Fund, Creeks Reserve Fund, and potentially project construction Grant funds.

PREPARED BY: Pat Kelly, Assistant Public Works Director/City Engineer/JH/mj

SUBMITTED BY: Christine F. Andersen, Public Works Director

APPROVED BY: City Administrator's Office



CITY OF SANTA BARBARA

COUNCIL AGENDA REPORT

AGENDA DATE: December 8, 2009
TO: Mayor and Councilmembers
FROM: Patrol Division, Police Department
SUBJECT: School Crossing Guards

RECOMMENDATION: That Council:

- A. Authorize the Chief of Police to execute a Memorandum of Understanding, subject to approval of the City Attorney, between the City of Santa Barbara and the Santa Barbara School Districts and Hope School District for school crossing guard services through June 3, 2010; and
- B. Increase estimated revenues and appropriations by \$129,500 in the General Fund Police Department's Parking Enforcement Program for the costs of the school crossing guards to be reimbursed by the Santa Barbara School District (\$112,000) and Hope School District (\$17,500).

DISCUSSION:

Historically, the City, through its Police Department, funded, staffed and administered a crossing guard program where guards were placed at specified street crossings in the Santa Barbara and Hope School Districts to assist school children as they enter and exit the elementary school grounds. Due to significant revenue declines, the City of Santa Barbara's Fiscal Year 2010 budget contained substantial reductions, including reductions to the Police Department that resulted in the elimination of the crossing guard program.

In order to continue providing crossing guards to the Santa Barbara and Hope School Districts, the City and the Districts have negotiated a Memorandum of Understanding providing that the City, through the Police Department, will staff and administer the crossing guard program and the Districts, in return, will reimburse the City for the cost to staff and administer the program for the duration of the 2009 school year up to their budgeted amounts.

Santa Barbara School District shall reimburse the City for the hourly wages for each assigned crossing guard serving the District, plus benefits and program administration costs. The Santa Barbara School District's total obligation for the one year term of this MOU shall not exceed \$112,000. Hope School District shall reimburse the City for the hourly wages for each assigned crossing guard serving the District, plus benefits and program administration costs. The Hope School District's total obligation for the one year term of this MOU shall not exceed \$17,500.

BUDGET/FINANCIAL INFORMATION:

The costs of the crossing guards for the term of the MOU will be reimbursed by the Santa Barbara and Hope School District. There will be no budgetary impact to the General Fund.

PREPARED BY: Alex Altavilla, Police Captain

SUBMITTED BY: Camerino Sanchez, Chief of Police

APPROVED BY: City Administrator's Office



CITY OF SANTA BARBARA

COUNCIL AGENDA REPORT

AGENDA DATE: December 8, 2009

TO: Mayor and Councilmembers

FROM: Community Services, Police Department

SUBJECT: Safe Transportation Research And Education Center (SafeTREC)
Of The California School Of Public Health, Berkeley (UC Berkeley)

RECOMMENDATION: That Council:

- A. Accept \$26,205 from the University of California School of Public Health, Berkeley, to the Police Department and authorize the Chief of Police to execute the grant agreement; and
- B. Increase fiscal year 2010 Miscellaneous Grants Fund estimated revenue and appropriations in the amount of \$26,205 for the Sobriety Checkpoint Program.

DISCUSSION:

In September of 2009, the Santa Barbara Police Department applied for a Sobriety Checkpoint Mini-Grant program for 2009-2010 from the California Office of Traffic Safety (O.T.S.) from the University of California School of Public Health, Berkeley. The goal of these checkpoints is to reduce the number of victims killed and injured in alcohol-impaired collisions. It includes a 19 day mobilization period from December 16, 2009 to January 3, 2010 and an 18 day mobilization period from August 20, 2010 to September 3, 2010 targeting impaired drivers. It also includes four other checkpoints outside these mobilization periods. The mini-grant funds will be used on an overtime basis for first line supervisors, officers, and clerical staff to meet the grant reporting requirements.

PREPARED BY: Noel Rivas, Traffic Sergeant

SUBMITTED BY: Camerino Sanchez, Chief of Police

APPROVED BY: City Administrator's Office



CITY OF SANTA BARBARA

COUNCIL AGENDA REPORT

AGENDA DATE: December 8, 2009

TO: Mayor and Councilmembers

FROM: Planning Division, Community Development Department

SUBJECT: Request For Preliminary Community Priority Designation For The Cancer Center Of Santa Barbara Project At 540 W. Pueblo Street

RECOMMENDATION:

That Council make a preliminary finding that the project proposed for The Cancer Center of Santa Barbara meets the definition of a Community Priority Project, and grant the project a Preliminary Community Priority Designation for 5,845 square feet of nonresidential floor area.

DISCUSSION:

Project Description

The Cancer Center of Santa Barbara is an existing, local, non-profit cancer treatment organization that proposes a new comprehensive out-patient cancer treatment facility on its 3.38 acre property that extends between W. Pueblo Street and W. Junipero Street. The project site is zoned C-O, Medical Office and has a General Plan designation of Major Public/Institutional.

The existing 17,444 square foot main medical building, approximately 2,510 square feet of existing medical office space housed in other structures onsite, and eight residential units would be demolished. The new facility would consist of a new 53,407 square feet medical building on W. Pueblo Street, renovation and conversion of the 2,392 square foot building at 525 W. Junipero Street from residential to commercial space, the renovation of the commercial building at 601 W. Junipero Street, and a new, two and three story, parking structure. The residential portion of the proposal would consist of two new residential duplexes, one new residential unit added to an existing unit, for a total of six residential rental units. The proposal includes the merger of 10 existing parcels. Vehicular access would be provided on both W. Pueblo Street and W. Junipero Street (see Attachment 1 – Site Plan).

Community Priority Designation

The City Charter describes Community Priority Projects as those which are found by the City Council as necessary to meet present or projected needs directly related to public health, safety or general welfare. The Municipal Code defines "general welfare" as "*a community priority project which has a broad public benefit (for example: museums, child care facilities, or community centers) and which is not principally operated for private profit.*"

With this proposal, the Cancer Center of Santa Barbara requests a preliminary designation of 5,845 square feet of floor area from the Community Priority Category (see Attachment 2 – Applicant's Letter). Staff believes that the project satisfies the required finding for approval of Community Priority square footage because it is a local, non-profit organization that is necessary to provide present and projected needs for cancer treatment in the Santa Barbara area. Therefore, Staff recommends approval of the preliminary designation. Currently, 73,880 square feet is remaining in the Community Priority Category for allocation (see Attachment 3 - Community Priority Projects Table); therefore, enough square footage is available to meet this request.

The proposed project would require a total of 55,799 square feet. The remaining square footage needed for the proposed project would be allocated from the Minor Addition category (10,000 sq. ft.), from the Small Addition category (20,000 sq. ft.) and from demolition credit (19,954 sq. ft.) if approved by the Planning Commission at a later date.

Both the Planning Commission and the Architectural Board of Review have conceptually reviewed the proposed project.

Next Steps

This action neither approves nor implies approval of the project. If the request for a Preliminary Community Priority Designation is granted by the City Council, the proposed project would proceed through environmental review and ultimately, be considered by the Planning Commission for project approval. At that time, the Planning Commission would be asked to make a recommendation to the City Council concerning the Final Community Priority Designation. The application would then be forwarded to the City Council, together with the Planning Commission's recommendation, for a Final Designation as a Community Priority project.

NOTE: The project plans have been sent separately to the City Council and are available for public review in the City Clerk's Office.

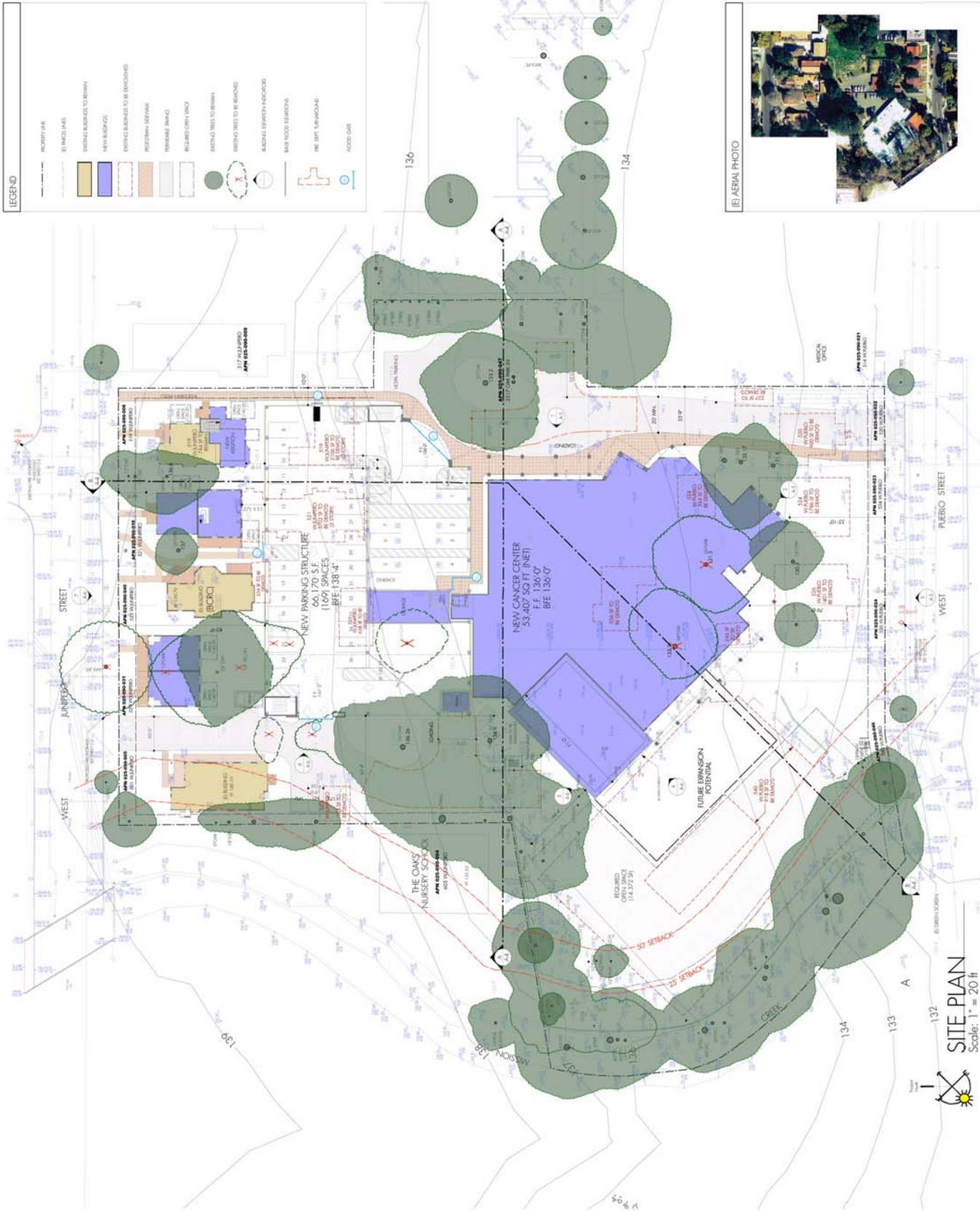
ATTACHMENTS:

1. Site Plan
2. Applicant's Letter dated November 5, 2009
3. Community Priority Projects Table

PREPARED BY: Kathleen Kennedy, Associate Planner

SUBMITTED BY: Paul Casey, Community Development Director

APPROVED BY: City Administrator's Office



November 5, 2009

Kathleen Kennedy
Project Planner
City of Santa Barbara
Planning Department
630 Garden Street
Santa Barbara, CA 93101

SUBJECT: Request for Measure E Allocations
Case: MST2007-00092; 540 West Pueblo Street, City of Santa Barbara

Dear Ms. Kennedy:

As a component in achieving a complete development permit application for a project which entails commercial square footage, it is our understanding we need to formally request allocations under the City's Measure E program for the Cancer Center Master Plan. This letter presents our formal request for consideration by the City Council.

Project Description

The Cancer Center of Santa Barbara, a local non-profit cancer treatment organization, is proposing to develop a comprehensive out-patient cancer treatment campus on its property located between West Pueblo Street and West Junipero Street, in the vicinity of Oak Park within the City of Santa Barbara. The approximately 3.38 acre project site (147,316 square feet) is currently composed of 10 individual parcels which are developed with a variety of structures and uses. A voluntary merger of the ten existing parcels into one legal parcel is proposed to accommodate the Master Plan Development. The Cancer Center is specifically requesting approval of a Development Plan for the property and Measure E allocations.

The Master Plan project includes Demolition of the existing primary medical building on-site (540 West Pueblo Street) and approximately 2,510 net square feet of existing medical and office space housed in several structures at the site. The Master Plan would include 55,799 net square feet of commercial space, including medical office, office, and related uses. This represents a net increase of 33,453 net square feet of new medical office floor area over and above what exists on the site today. A four level parking structure is proposed immediately adjacent to the medical facility, containing 169 parking stalls. Site vehicular access and circulation would be simplified with a single ingress/egress driveway connecting to each West Pueblo Street and West Junipero Street.

The Master Plan also proposes to demolish five existing residential structures (containing 8 total residential units), and to partially replace these with two new duplex structures and a single residential unit addition to the one retained residence, for a total of 5 new/replacement residential units and a grand total of six (6) residential units within the Master Plan property.

The proposed architecture incorporates elements of the California Craftsman / bungalow style to compliment both on-site preserved structures and the surrounding neighborhood. The proposed primary medical facility structure would be three stories in height, while the new residences and residential additions would be two stories in height. The parking structure is proposed to have one level below ground and three levels above ground, but with a total height of 37 feet. All proposed structures would meet the zoning ordinance height limit of 45 feet. However, the main entrance to the three-story cancer treatment facility would include an architectural feature which projects above the 45-foot plane (see Sheet A.5).

Measure E Request

The Cancer Center of Santa Barbara is requesting the maximum allowable Measure E allocation from the "small" project category for each of the existing 10 legal parcels which compose the property (2,000 square feet per parcel). The Applicant also requests the maximum allowable Measure E allocation from the "minor addition" category for each of the existing legal parcels (1,000 square feet per parcel). The Applicant is requesting the remaining Measure E allocation necessary to accommodate the increase in commercial space from the Community Priority category. The attached table provides a breakdown of the statistics to accompany the request.

Basis for Measure E Community Priority Allocation Request

The Cancer Center of Santa Barbara has been providing critical cancer treatment and associated health care services to the Santa Barbara region since its inception in 1949. In the absence of this organization many local cancer patients would need to seek treatment outside the area, increasing the difficulty of the treatment and recovery process. The Cancer Center is at a pivotal point where additional space is required in order to accommodate the latest and best technologies for diagnosis and treatment, while at the same time achieving compliance with modern patient care space standards. The Cancer Center has made the commitment to invest in technology and facility construction to provide unparalleled care for cancer patients right here in Santa Barbara, negating the need to travel outside of the area and ensuring that the Santa Barbara population will continue to receive the highest possible level of care for cancer-related illnesses. It is an exciting time for the Cancer Center and for this community as this project, once complete, will be one of the premier cancer treatment facilities in the country and a model for future development of sustainable design health care facilities. For these reasons, the

Kathleen Kennedy
Cancer Center Measure E Allocation Request
November 5, 2009
Page 3

Cancer Center believes this project is ideally qualified to receive a Measure E Allocation under the Community Priority category.

Should you have any questions regarding this Measure E allocation request, please don't hesitate to give me a call at 963-0651 ext. 3521.

Sincerely,



Kenneth E. Marshall, AICP

cc: (w/o attachments)
Brad Hess, Cancer Center
Brian Cearnal

Attachments:

Measure E Statistics Tables

**CANCER CENTER OF SANTA BARBARA
MEASURE E ALLOCATION REQUEST
STATISTICS SUMMARY**

TABLE 1 Measure E Analysis (1988 Status) Per Address - Allowable New Floor Area [NET]					
Address	Permitted Use	Credit for Existing Square Feet	Minor Addition Allocation	Small Project Allocation	Demolition Credit Applies (X)
520 W. Pueblo	Residence	NO	1,000 S.F.	2,000 S.F.	
524 W. Pueblo	Residence	NO	1,000 S.F.	2,000 S.F.	
526 W. Pueblo	Residence Laundry Fac.	NO YES	1,000 S.F.	2,000 S.F.	X
540 W. Pueblo	Medical Office	YES	1,000 S.F.	2,000 S.F.	X
519 W. Junipero	Residence	NO	1,000 S.F.	2,000 S.F.	
521 W. Junipero	Residence	NO	1,000 S.F.	2,000 S.F.	
525 W. Junipero	Residence	NO	1,000 S.F.	2,000 S.F.	
529 W. Junipero	Residence	NO	1,000 S.F.	2,000 S.F.	
601 W. Junipero	Medical Office	YES	1,000 S.F.	2,000 S.F.	Partial
2317 Oak Park	Medical Office	YES	1,000 S.F.	2,000 S.F.	X
Sub-totals			10,000 S.F.	20,000 S.F.	

TABLE 2 Measure E Analysis Demolition Credits Per Address - Net Floor Area				
	Permitted Use	Existed in 1988	Net Square Feet Demolished	Entire Structure Demolished ?
526 W. Pueblo	Laundry Facility / Storage	YES	906 S.F.	YES
540 W. Pueblo	Medical Office	YES	17,444 S.F.	YES
601 W. Junipero	Medical Records Storage (Detached Former Garage)	YES	340 S.F.	YES
2317 Oak Park	Medical Offices	YES	1,264 S.F.	YES
Sub-totals			19,954 S.F.	

Note: 2317 Oak Park Lane was a former psychiatric medical office structure still in existence in 1988, which was just recently demolished (2007).

TABLE 3 Measure E Analysis Proposed New Commercial – Net Floor Area	
Cancer Center Facility	53,407 S.F.
Conversion (Re-designation) of BCRC to “Commercial” [525 W. Junipero]	2,392 S.F.
Sub-totals	55,799 S.F.

TABLE 4 Measure E Analysis Statistics Summary		NET SQUARE FEET
Minor Addition Allowance	(see Table 1)	10,000 S.F.
Small Project Allowance	(see Table 1)	20,000 S.F.
Demolition Credit	(see Table 2)	19,954 S.F.
TOTAL MEASURE ‘E’ ALLOCATION		49,954 S.F.
Proposed New Commercial Space (see Table 3)		55,799 S.F.
Balance (Community Priority Request)		5,845 S.F.

**PROJECTS WITH PRELIMINARY OR FINAL
COMMUNITY PRIORITY DESIGNATIONS**

PROJECT/ADDRESS	PRELIM. DESIG. (SQ. FT.)	FINAL DESIG. (SQ. FT.)	STATUS/ COMMENT
Boys & Girls Club Addition 602 W Anapamu Street MST90-02931	4,800		Initial application 1990; potential - working on revised
Housing Authority 702 Laguna Street MST92-00043		4,550	Completed
Natural History Museum 2559 Puesta Del Sol MST92-00608		2,165	Completed
Airport Fire Station 40 Hartley Place MST92-00746		5,300	Completed
Santa Barbara Zoo 500 Niños Drive MST95-00330		210	Completed
Desalination Plant 525 E. Yanonali Street MST95-00425 (MST90-00360)		528	Completed
Santa Barbara Rescue Mission 535 E. Yanonali Street MST96-00228		7,213	Completed
Airport Master Plan 601 Firestone Road MST96-00355		12,557*	Airline Terminal expansion; portion or all may be considered for Economic Development category at later date
Airport Master Plan 601 Firestone Road MST96-00355		50,000*	
Rehabilitation Institute 2405 and 2415 De la Vina Street MST97-00196		9,110	Completed
Visitor Information Center - Entrada de Santa Barbara 35 State Street MST97-00357		2,500	Approved 8/21/01
Santa Barbara Harbor Restrooms 134 Harbor Way MST97-00387		1,200	Completed
Airport Terminal Expansion (trailers) 500 Fowler Rd. MST97-00392		2,300	Completed

PROJECT/ADDRESS	PRELIM. DESIG. (SQ. FT.)	FINAL DESIG. (SQ. FT.)	STATUS/ COMMENT
Waterfront Department Offices 132 Harbor Way MST97-00503		3,240	Completed
Transitions Preschool 2121 De la Vina Street MST97-00696		723	Completed
S.B. Maritime Museum 113 Harbor Way MST97-00832		2,805	Completed
Santa Barbara Cottage Hospital (Hospitality House) 2407-2409 Bath Street MST98-00042		4,158	Completed
MacKenzie Park Lawn Bowls Clubhouse 3111 State Street MST98-00076		763	Completed
Cottage Hospital 320 West Pueblo Street MST98-00287		980	Completed
The Full Circle Preschool 509 West Los Olivos Street MST98-00231		832	Completed
Storyteller Children's Center 2115 State Street MST98-00364		2,356	Completed
Free Methodist Church 1435 Cliff Drive MST98-00877		2,544	Completed
Salvation Army 423 Chapala Street MST99-00014		2,968	Completed
Homeless Day Center and Shelter 816 Cacique Street MST99-00432		10,856	Completed
Emmanuel Lutheran Church 3721 Modoc Road MST99-00510		8,120	Completed
Marymount School 2130 Mission Ridge Road MST99-00542		4,000	Completed
Parking Lot 6 – Granada Theater 1221 Anacapa MST1999-00909/MST2003-00908		7,810	Completed

PROJECT/ADDRESS	PRELIM. DESIG. (SQ. FT.)	FINAL DESIG. (SQ. FT.)	STATUS/ COMMENT
Planned Parenthood 518 Garden Street MST1999-00916		3,565	Completed
Sea Center 211 & 213 Stearns Wharf MST2000-00324		3,212	Completed
Santa Barbara Zoo 500 Ninos Drive MST2000-00707 (& MST2002-00676)		10,000	Final Designation 4/10/2007
Clean Water and Creeks Restoration Office 620 Laguna Street MST2000-00828		480	Completed
Elings Park 1298 Las Positas Road MST2001-00007/MST2006-00509	12,190		Draft EIR stage
Braille Institute 2031 De la Vina Street MST2001-00048		4,000	Completed
Modular Classrooms at Boys & Girls Club 632 E. Canon Perdido Street MST2001-00150		6,502	Completed
Cater Water Treatment Plant 1150 San Roque Road MST2001-00732		6,750	Completed
Santa Barbara Neighborhood Medical Clinics 915 North Milpas Street MST2001-00774		2,518	Completed
632 E. Canon Perdido St. Boys and Girls Club MST2002-00786 MST2008-00563	7,600		Preliminary Designation 7/15/03
617 Garden St. Mental Health Assoc. MST2002-00257		2,703	BP Issued 11/17/06
4000 La Colina Rd Bishop Diego High School MST 2004-00673		9,512	Final Designation 12/20/2005
125 State St Children's Museum MST2009-00119	2,500		Preliminary Designation 4/7/2009
SUBTOTALS:	27,090	199,030	
ALLOCATED TO DATE: 226,120 SQ. FT. REMAINING UNALLOCATED: 73,880 SQ. FT.			



CITY OF SANTA BARBARA

COUNCIL AGENDA REPORT

AGENDA DATE: December 8, 2009

TO: Mayor and Councilmembers

FROM: Transportation Division, Public Works Department

SUBJECT: Acceptance And Appropriation Of Commute Challenge Prize From Traffic Solutions

RECOMMENDATION: That Council:

- A. Accept \$700 in prize monies from the Santa Barbara County Association of Governments' (SBCAG) Traffic Solutions for the Commute Challenge Program; and
- B. Increase estimated revenues and appropriations by \$700 in the Fiscal Year 2010 Streets Capital Fund to be used for the Work Trip Reduction Incentive Program.

DISCUSSION:

Two years ago, the City entered into a dynamic partnership called Curb Your Commute, joining with the Santa Barbara Regional Chamber of Commerce, CalTrans, and Traffic Solutions, to help offset traffic impacts on the Highway 101 Construction Project by encouraging ridesharing during the four-year Project. One component of the Curb Your Commute Campaign was the Commute Challenge.

One hundred eighteen City employees participated in the Countywide Traffic Solutions Commute Challenge, held during the months of May and June 2009, by forming teams of five co-workers, family members or friends, to earn points and prizes by making and logging trips by bus, bike, foot, carpool, vanpool, or by telecommuting.

The City won in the Large Employer category due to the strong participation by City employees and policymakers. Traffic Solutions awarded a cash prize to the top team in each category and the City was awarded \$700. For the second consecutive year, the City was the winner in the Large Employer category of the Curb Your Commute Challenge.

The Transportation Division plans to budget the prize winnings for use toward quarterly gatherings for participants in the Work Trip Reduction Incentive Program (Work TRIP), to celebrate employee participation in the program, increase the employee participation rate in sustainable commutes, and to motivate employees to measure the fiscal and environmental impact of their commute choices.

BUDGET/FINANCIAL INFORMATION:

This appropriation to the Streets Capital Fund increases the available funding to encourage participation in the Work TRIP Program by \$700.

SUSTAINABILITY IMPACT:

During the 2009 Commute Challenge, 346 employees logged at least one alternative trip rather than driving alone. Of those employees, 118 joined a team for the competition. During the two month period, 4,180 automobile roundtrips were avoided, resulting in 127,038 fewer pounds of pollutants and 6,540 fewer gallons of gasoline consumed. During the contest period, as compared to the previous two months, the number of alternative commute trips recorded increased by 35%, amounting to an increased savings of approximately 23%.

Compared to the two month Commute Challenge contest in 2008, employee participation remained about the same; however, the two month period in 2009 showed a 10% reduction in automobile trips, 14% reduction in emissions, 23% fewer pounds of pollutants, and consumed 14% fewer gallons of gasoline compared to the two month period in 2008. As evidenced by increased participation in the Commuter Challenge, by choosing to drive alone to the workplace less frequently, the Work TRIP project continues to grow in participation as a benefit for our employees, the environment, and our community.

PREPARED BY: Browning Allen, Transportation Manager/SG/kts

SUBMITTED BY: Christine F. Andersen, Public Works Director

APPROVED BY: City Administrator's Office



CITY OF SANTA BARBARA

COUNCIL AGENDA REPORT

AGENDA DATE: December 8, 2009
TO: Mayor and Councilmembers
FROM: Airport Administration, Airport Department
SUBJECT: Establish General Aviation Landing Fees

RECOMMENDATION: That Council:

- A. Approve the establishment of a general aviation landing fee to be assessed on all Federal Aviation Regulation (FAR) Part 135 operations and all transient (non-based aircraft, which shall be defined as all aircraft not listed on the annual Santa Barbara County Unsecured Property Assessment and Taxation System, California Department of Aeronautics Report of Aircraft) aircraft 10,000 pounds of gross landed weight or greater, to assist in recovery of expenses related to the operation and maintenance of the airfield; and
- B. Authorize the Airport Director to negotiate and execute an Agreement to Collect and Remit Landing Fees, subject to approval of the form of the agreement by the City Attorney, with the two fixed base operators, Signature Flight Support and Atlantic Aviation, effective January 1, 2010.

DISCUSSION:

Purpose and Background

As an Enterprise Fund the Airport Department generates its revenues from rental of property and fees from various aviation related activities. Historically, commercial/industrial revenue has subsidized the general aviation cost centers.

The purpose of a general aviation landing fee is to establish an equitable system to recover Santa Barbara Airport's airfield costs. Approximately 30% or \$3.5 million of the Airport Department's Operational budget is allocated to the airfield. Revenues from the use of the airfield are received from commercial airlines landing fees of \$1.1 million and fuel flowage fees from general aviation and other users totaling \$130,000 annually. The balance of airfield expenses, \$2,270,000, is covered by commercial/industrial revenues.

Airport staff contacted other airports within and outside the State of California to gather information on landing fee policies and practices. Numerous airports charge landing fees to general aviation users. Of the 21 airports contacted, the majority had an exemption for certain aircraft by weight. The weight exemption ranged from none to 35,000 lbs. The average exemption was for aircraft weighing 10,000 lbs. or less.

Proposed Policy Statement

To collect a general aviation landing fee from all FAR Part 135 operations (air taxi) and all non-based aircraft weighing 10,000 pounds of gross landed weight or greater. Non-based aircraft is defined as all aircraft **not listed** on the annual Santa Barbara County Unsecured Property Assessment and Taxation System, California Department of Aeronautics Report of Aircraft. The following aircraft users will be exempted from payment of the general aviation landing fee: Angel Flights, Life Guard, Medical Emergency, Federal, State, and Military aircraft. This particular landing fee will not apply to commercial aircraft. Additionally, the Airport Director, at her/his sole discretion, may waive landing fees under special circumstances. This policy shall be effective January 1, 2010.

An example of the type of aircraft this policy will apply to includes the Cessna Citation, weighing between 11,000 to 30,000 pounds gross landed weight, with landing fees of \$21.78 to \$61.38 per landing.

Public Review of Proposed Policy

The Airport Commission, General Aviation Subcommittee, met on three occasions, March 3, August 19, and October 5, 2009, to discuss the concept of a general aviation landing fee. As a result of those meetings, staff surveyed other airports, met with the two fixed base operators to discuss application of the fee, collection and remittance of fees, and prepared a public information program to disseminate information on the new landing fee. Additional comments were received at the September 16, 2009 Airport Commission meeting.

Implementation Procedures

Public Information

Informational flyers will be prepared and provided to the Fixed Base Operators for their tenants. An article will be included in the General Aviation Newsletter. The Airport's website will be updated to add the general aviation landing fee. Additionally, the Federal Aviation Administration, Airport/Facility Directory will be updated.

Agreement to Collect and Remit Landing Fees

The Airport will enter into an Agreement with the Fixed Based Operators, Signature Flight Support and Atlantic Aviation, handling transient aircraft to collect the landing fee. Under the Agreement, appropriate landing fees will be collected and a report will be prepared and submitted monthly to the Airport detailing all fees collected on specified aircraft. Ninety percent of the fees collected by the Fixed Based Operators shall be remitted to the Airport. The Fixed Base Operators may retain ten percent of the collected landing fees for administrative costs. The Landing Fee collection will be included in the Airport's annual audit program.

Landing fees will be adjusted annually on July 1. General aviation landing fees shall be the same fee as charged to commercial aircraft using the Airport. The current rate is \$1.98 per thousand pounds of gross landed weight.

Revenue Projection

Based on transient operations data from Signature Flight Support, it is anticipated that during a 12-month period, the general aviation landing fee will generate approximately \$266,000 in annual revenue.

Airport Commission

The Airport Commission at the regularly scheduled meeting on November 18, 2009, recommended approval to impose a general aviation landing fee to be effective January 1, 2010.

PREPARED BY: Hazel Johns, Assistant Airport Director

SUBMITTED BY: Karen Ramsdell, Airport Director

APPROVED BY: City Administrator's Office



CITY OF SANTA BARBARA

COUNCIL AGENDA REPORT

AGENDA DATE: December 8, 2009

TO: Mayor and Councilmembers

FROM: City Clerk's Office, Administrative Services Department

SUBJECT: Increase To Purchase Order Issued To Martin & Chapman Company
For Election-Related Services

RECOMMENDATION:

That Council authorize the Administrative Services Director to increase the expenditure authority for Agreement No. 23,124, issued to Martin & Chapman Company, by \$16,315.14, for a total of \$125,565.14, for election-related services performed during the 2009 Vote-by-Mail General Municipal Election.

DISCUSSION:

At the November 24, 2009 City Council meeting, the City Council was informed that staff would return in December 2009 to augment the contract with Martin & Chapman Company.

On June 9, 2009, the City Council approved an agreement with Martin & Chapman Company for election-related services for an amount not to exceed \$109,250. The cost for the June 9, 2009 contract was based on nine candidates and one ballot measure. However, following the final candidate application deadline we had 18 candidates and four ballot measures.

In addition to more candidates and ballot measures than anticipated, the voters' pamphlet correspondingly increased from 24 to 60 pages, translation costs increased significantly and we had to shift from one to two ballot cards, which required printing twice as many ballots. As a result, total costs increased by \$26,315.14 to \$135,565.14.

As reported on November 24, 2009, staff negotiated cost reductions totaling \$10,000. Therefore, the net-increase is \$16,315.14. We received a \$5,000 reduction because one of the two vote counting machines was not properly calibrated and \$5,000 reduction for the cost of staff involved in the recount.

Council Agenda Report

Increase To Purchase Order Issued To Martin & Chapman Company For Election-Related Services

December 8, 2009

Page 2

BUDGET/FINANCIAL INFORMATION:

There are sufficient funds in the elections budget to cover the cost of the additional supplies and services.

PREPARED BY: Cynthia M. Rodriguez, City Clerk Services Manager

SUBMITTED BY: Marcelo A. López, Administrative Services Director

APPROVED BY: City Administrator's Office



CITY OF SANTA BARBARA

COUNCIL AGENDA REPORT

AGENDA DATE: December 8, 2009

TO: Mayor and Councilmembers

FROM: Engineering Division, Public Works Department

SUBJECT: Contract For Design Of The El Estero Wastewater Treatment Plant Influent Pump Replacements

RECOMMENDATION:

That Council authorize the Public Works Director to execute a City Professional Services contract with the firm of Brown and Caldwell Engineers (Brown & Caldwell) in the amount of \$254,119, for design services for El Estero Wastewater Treatment Plant (El Estero) Influent Pump Replacements, and authorize the City General Services Manager to approve expenditures of up to \$25,500 for extra services by Brown and Caldwell that may result from necessary changes in the scope of design work.

DISCUSSION:

The Influent Pumps at El Estero pump an average of 8 million gallons per day (MGD) of untreated wastewater approximately 70 feet in elevation to the first of the El Estero treatment tanks, the grit chamber, from which point the wastewater flows by gravity through the remaining treatment processes. The pumps are capable of handling wet weather flows in excess of 30 MGD. Three of the existing pumps were installed in the 1970's, and a fourth pump made by a different manufacturer was installed in 2006. The fourth pump did not perform as expected, has had excessive maintenance requirements and is being replaced along with the other three pumps.

Brown and Caldwell was contracted to evaluate and make recommendations for rehabilitation or replacement of the El Estero existing pumps. Brown and Caldwell's initial approach was to rehabilitate the existing pumps. However, the scope of the rehabilitation was so extensive that staff determined it would be more cost effective to replace the pumps. Two of the four new pumps will be smaller, and will be used during low flow periods, providing for improved operational and energy efficiency. Overall pumping capacity and redundancy will be maintained by having four pumps.

Design services will include pump replacement plans and specifications of pumps, ventilation improvements to the wet well and headworks area, structural replacement of existing pump pads, control strategy, process and instrumentation diagrams, electrical design, asset management tagging, and bid support.

DESIGN PHASE CONSULTANT ENGINEERING SERVICES

Staff recommends that the City Council authorize the Public Works Director to execute a contract with Brown and Caldwell in the amount of \$279,619, which includes a 10% change order authority for the design and preparation of bid plans and specifications for the replacement of the influent pumps. Brown and Caldwell, which will provide the City with a highly qualified engineering team, is a participant in the City's Three-year Pre-qualified Engineering Services Program and is experienced in this type of work and knowledgeable of the issues and needs for the replacement of the pumps.

BUDGETARY/FINANCIAL INFORMATION:

The following summarizes all estimated total Project costs:

ESTIMATED TOTAL PROJECT COST

Design (by Contract)	\$279,619
Other Design Costs – (by City staff)	\$40,000
Subtotal	\$319,619
Estimated Construction Contract w/Change Order Allowance	\$2,244,000
Estimated Construction Management/Inspection	\$224,400
Subtotal	\$2,468,400
TOTAL PROJECT COST	\$2,788,019

There are sufficient funds in the Wastewater Capital Budget to pay the design costs. Construction bidding is expected in July 2010.

SUSTAINABILITY IMPACT:

This project addresses replacement of a critical asset for the City's wastewater treatment process, which protects human health and the environment.

PREPARED BY: Joshua Haggmark, Principal Civil Engineer/LC/sk

SUBMITTED BY: Christine F. Andersen, Public Works Director

APPROVED BY: City Administrator's Office



CITY OF SANTA BARBARA

COUNCIL AGENDA REPORT

AGENDA DATE: December 8, 2009

TO: Mayor and Councilmembers

FROM: Recreation Division, Parks and Recreation Department

SUBJECT: Re-Appointment Of Youth Intern Applicant To Park And Recreation Commission

RECOMMENDATION:

That Council request that Mayor Blum re-appoint Diego Torres-Santos to the position of Youth Intern on the Park and Recreation Commission.

DISCUSSION:

On February 7, 1995, the City Council established a Youth Intern Program for Charter Boards and Commissions. The Program was established to expand the opportunities for City youth residents to participate in the City's governmental and advisory role process.

On June 6, 2000, Council extended the Youth Intern Program to high school student volunteers who reside within the Santa Barbara High School District or attend other high schools within the City limits to learn first hand how public decisions are made, and how City departments function in providing public services while at the same time providing community service that may qualify for academic credit.

The Park and Recreation Commission has had a youth appointed to serve as Youth Intern since the program was adopted in 1995. Diego Torres-Santos, who has served as the Council-appointed Youth Intern to the Commission since October 14, 2008, has applied for re-appointment. The intern policy allows for youth to serve up to two years.

Diego Torres-Santos

Diego Torres-Santos is a senior at San Marcos High School with strong leadership ability and a strong academic standing. Enthusiastically recommended by his Guidance Counselor as well as one of his mentors and former Spanish teachers, Diego is described as being "honorable, genuine and very kind." Diego has served for one year as the Youth Intern for the Park and Recreation Commission and has received high regards from the Commission as a whole. Diego has accepted his responsibilities in

that position, regularly attending and participating in the Commission meetings as well as reporting back on those meetings to the Santa Barbara Youth Council, where he serves as 2nd Vice Chair. As one of his extracurricular activities, Diego lists being a volunteer at the Twelve35 Teen Center, where almost daily he can be found working with the other teens and assisting staff with desk duties. Currently maintaining a 3.25 academic G.P.A., Diego continues to balance school assignments with an active Youth Council schedule, music and choir practice as well as other community services activities, such as working with the League of Women Voters and AHA.

The Park and Recreation Commission has expressed its appreciation for the youth internship program and staff is confident that Diego Torres-Santos will fulfill his obligations as the Youth Intern on the Commission.

ATTACHMENT(S): 1. Intern Application
 2. Letter of Recommendation

PREPARED BY: Susan C. Young, Neighborhood and Outreach Services
 Supervisor

SUBMITTED BY: Nancy L. Rapp, Parks and Recreation Director

APPROVED BY: City Administrator's Office

YOUTH INTERN APPLICATION FOR APPOINTMENT TO CITY ADVISORY GROUP

Parks & Recreation Department
TEEN PROGRAMS DIVISION
P. O. Box 1990
Santa Barbara, CA 93101
(805) 897-2650

Name: <u>Diego Torres-Santos</u>	Grade: <u>12</u>	Age: <u>17</u>
Residence: <u>1207 Castillo St #A</u>	City: <u>Santa Barbara</u>	Zip: <u>93101</u>
Email Address: <u>dball93101@yahoo.com</u>	High School: <u>San Marcos High School</u>	
Parent/Guardian: <u>Josephine Torres</u>	Phone Number: <u>698-1871</u>	
Emergency Contact: <u>Josephine Torres</u>	Phone Number: <u>450-4696</u>	
Recommender: <u>Daniel Archuleta</u>		

I. Advisory Body/Commission Applied for (list them in order of preference)

1. Santa Barbara Parks & Rec Commission 2. _____ 3. _____

Are you able to provide the two-hour commitment per month? Yes ☒ No ☐

II. Are you active in any clubs on campus? Yes ☒ No ☐ If yes, please list: I'm part of a men's choir called Royal Knights.

III. Extracurricular activities (On & Off Campus) Im part of the Santa Barbara Youth Council, Im in the choir at San Marcos High, Im the current youth intern on the Parks and Rec Comisson, im a volunteer at the 1235 Teen Center, im singer/dancer and have performed for events in Santa Barbara.

IV. Reasons you believe you should be appointed to this group (Please use separate page.)

Recommender's Signature _____ Date: _____

I have read Resolution No. 86-444 of the Council of the City of Santa Barbara and if appointed, will follow it in the conduct of my duties.

Applicant's Signature  Date: 11/8/04

Date Received: _____ Date distributed to Mayor /Council offices: _____

Dates Interviewed: _____

If appointed: Date: _____ Term Expires: _____

IV. I believe that I should be re-appointed to the Parks & Rec Commission as the youth intern because I am currently the youth intern and I have learned a lot about local government and local politics while being aboard. I'm also apart of the Santa Barbara Youth which is a group of youth teens that show leadership abilities and make there voice heard. I truly have enjoyed it and would like to be re-appointed. I've been able to get really close to my community and have been able to develop my public speaking. I'm a youth leader that enjoys learning about things in my community and show true dedication, commitment and responsible. I hope to be able to serve as the youth intern on the Parks&Rec Commission for another year. I am sure my experience will help other students in our community.

P.O. Box 12
Los Olivos, California 93441
November 9, 2009

1235 Chapala Street
Santa Barbara, CA 93101

Dear Susan Young:

This Letter of Recommendation is written on behalf of Diego Santos in support of his application for a youth intern position within the Santa Barbara Parks and Recreation Program.

I recently retired from the Santa Barbara Public Schools District after more than 37 years in teaching and administration in Spain, in the Bay Area and here in Santa Barbara. I am currently employed in a part-time position teaching Spanish at Santa Barbara High School.

I have known Diego Santos for some three years. I was his Spanish 3-4 teacher at San Marcos High School in his sophomore year. Since then we have kept in close contact even though I had transferred to teach at Santa Barbara High School year before last.

First and foremost, I consider Diego to be honorable, genuine and very kind. He has always demonstrated a deep respect for his fellow students and for me, his teacher. He is sincere and mature beyond his years. As a student of Spanish, he was hardworking, responsible and very dutiful. He went over and above what was required. In fact, he was one of a very few that memorized and performed a cappella a Mexican *corrido*, "Juan Charrasqueado" consisting of eight stanzas, some 32 verses. He did this for extra credit even though he had already secured an "A" in the class. I am still impressed with this minor endeavor that speaks so well of his personal drive and ambition. Since then, I witnessed another performance of his singing at a talent show in front of fellow students, parents and guests at San Marcos High School. Again, I heartily applauded his efforts to excel.

I cannot speak highly enough of Diego and my personal admiration for his achievements in and out of the classroom. I offer him my highest regard and recommendation for the position of youth intern in your program.

Should you have further questions, please contact me either by phone, 805-403-2652 or by e-mail, danielarch49@comcast.net.

Sincerely,



Daniel Archuleta

Spanish Teacher, SBHS



CITY OF SANTA BARBARA

JOINT COUNCIL AND REDEVELOPMENT AGENCY AGENDA REPORT

AGENDA DATE: December 8, 2009

TO: Mayor and Councilmembers
Chairperson and Boardmembers

FROM: Housing and Redevelopment Division, Community Development
Department

SUBJECT: Redevelopment Agency 2009 Annual Report

RECOMMENDATION: That Council and Redevelopment Agency Board:

- A. Approve the Comprehensive Annual Financial Report for the Fiscal Year ended June 30, 2009, consisting of the Auditor's Opinion and Financial Statements, and the Auditor's Compliance Report; and
- B. Direct staff to submit required copies of the Report to the California State Controller's Office.

DISCUSSION:

Pursuant to State Health and Safety Code Section 33080.1 et seq., each year the Redevelopment Agency must submit an annual report to the State Controller's Office. Prior to submission, the annual report must be presented to the legislative body for review and approval. The annual report must contain an independent financial audit conducted by a certified public accountant, a report on the Agency's compliance with the laws and regulations governing the activities of the Agency, a report describing the Agency's programs and projects during the previous fiscal year, and a description of the Agency's housing activities in the previous fiscal year.

In order to comply with these requirements, the annual report consists of three components: the State Controller's Office Annual Report Forms; the Redevelopment Agency's Comprehensive Annual Financial Report (CAFR); and the State Department of Housing and Community Development's Redevelopment Agency Annual Report. A copy of the Redevelopment Agency's CAFR has been provided to each Councilmember. The complete Annual Report package can be found in the Council Reading File, the City Clerk's Office, and the Housing and Redevelopment Division Office.

The Redevelopment Agency's CAFR, as reviewed by Caporicci & Larson, Certified Public Accountants, for the fiscal year ended June 30, 2009, outlines the Agency's financial condition and compliance with State law and regulation. The Redevelopment Agency received an unqualified, or "clean," opinion on its financial statements, had no material weaknesses in internal controls, and, was found to be in compliance with redevelopment agency laws and regulations.

Staff recommends that the City Council and the Redevelopment Agency Board receive, accept, and approve the CAFR for the fiscal year ended June 30, 2009, and direct staff to submit copies of the Annual Report to the California State Controller's Office.

PREPARED BY: Brian J. Bosse, Housing and Redevelopment Manager

SUBMITTED BY: Paul Casey, Deputy Director

APPROVED BY: City Administrator's Office



Agenda Item No: _____

File Code No. 640.06

CITY OF SANTA BARBARA

REDEVELOPMENT AGENCY AGENDA REPORT

AGENDA DATE: December 8, 2009

TO: Chair and Boardmembers

FROM: Housing and Redevelopment Division, Community Development Department

SUBJECT: Santa Barbara Trust For Historic Preservation Bridge Loan Repayment

RECOMMENDATION: That the Redevelopment Agency Board:

- A. Accept the repayment of a bridge loan from the Santa Barbara Trust for Historic Preservation; and
- B. Appropriate the \$522,180 in repayment funds in the Fiscal Year 2010 Redevelopment Agency Capital Fund's Project Contingency Account.

DISCUSSION:

On May 1, 2007, the Redevelopment Agency Board approved a bridge loan of \$500,000 to the Santa Barbara Trust for Historic Preservation (Trust) in order to secure a more favorable financing of its purchase of the Jimmy's property located at 126 East Canon Perdido Street. Funding of the loan to the Trust came from the Redevelopment Agency's Project Contingency Account and provided for the payment of interest at a rate tied to the State Local Agency Investment Fund. Both the principal and accrued interest were due in full on the loan maturity date of May 1, 2010, or upon purchase of the Jimmy's property by the State, whichever occurred first.

The Trust completed a number of real estate transactions over the past year which have provided them with the opportunity to pay off the Agency loan prior to the maturity date. The Trust has made full payment of the loan plus accrued interest in the amount of \$522,180. Agency staff is now requesting that the funds be appropriated back into the Redevelopment Agency's Project Contingency Account. The Project Contingency Account is used to provide additional funds to existing capital projects which face cost increases due to changes in project scope or construction cost increases. Any future use of these funds requires Agency Board approval.

PREPARED BY: Brian J. Bosse, Housing and Redevelopment Manager

SUBMITTED BY: Paul Casey, Community Development Director

APPROVED BY: City Administrator's Office



CITY OF SANTA BARBARA

JOINT COUNCIL AND REDEVELOPMENT AGENCY AGENDA REPORT

AGENDA DATE: December 8, 2009

TO: Mayor and Councilmembers
Chair and Boardmembers

FROM: Engineering Division, Public Works Department
Housing and Redevelopment Division, Community Development
Department

SUBJECT: Contract For Design Services For The Fire Station No. 1 Annex
Renovation Project

RECOMMENDATION:

- A. That the Redevelopment Agency Board authorize the expenditure of \$204,000 from the Agency's Fire Department Administration Annex Project account in the 2003A Bond Fund for final design services relating to the renovation of the Fire Station No. 1 Annex building (Project); and
- B. That Council authorize the Public Works Director to execute a contract with Kruger Bensen Ziemer Architects, Inc. (KBZ), in the amount of \$185,500, for final design services for the Project, and approve expenditures of up to \$18,500 for extra services of KBZ that may result from necessary changes in the scope of work.

DISCUSSION:

BACKGROUND

In June 2006, Council authorized the preliminary design of Fire Station No. 1 and the adjacent Fire Station Annex building (Annex), located at 925 Chapala Street. Due to budget concerns, the portion of the Project to renovate the Annex was deferred and the Project was divided into two phases; the completion of the main Fire Station No. 1 building, and the renovation of the Annex building. Phase 1 was completed in October 2009, and funding for the Annex renovation has been secured.

PROJECT DESCRIPTION

The current Annex layout consists of approximately 4,000 square feet of Fire Department equipment storage and 4,700 square feet of office space that will house approximately sixteen full-time staff. Completion of the Annex renovation will allow the Fire Department to discontinue the current leasing option at 925 De La Vina Street that expires in November 2012. The Annex building renovation will include a complete seismic retrofit, mechanical, electrical, and Americans with Disabilities Act upgrades to this building.

Staff is now requesting funding to engage the design services of KBZ for the next phase in this Project. The contract with KBZ will provide for completion of the Annex renovation design and includes pursuing a Leadership in Energy and Environmental Design (LEED) certification.

DESIGN PHASE CONSULTANT ENGINEERING SERVICES

Staff recommends that Council authorize the Public Works Director to execute a contract with KBZ in the amount of \$185,500 for final design, and approve expenditures of up to \$18,500 for extra services of KBZ that may result from necessary changes in the scope of work, for a total authorization of \$204,000.

KBZ's scope will include taking the preliminary design drawings to final design, updating the construction cost estimate, preparing construction documents for bidding, and all required permitting, as well as preparation of LEED certification for the building.

KBZ was selected as the most qualified firm for the Project through a Request for Proposals process in 2005.

FUNDING

The following summarizes all estimated total Project costs:

ESTIMATED TOTAL PROJECT COST

Design (Contract)	\$204,000
Project Management (City)	\$50,000
Permits	\$10,000
LEED Commissioning	\$25,000
Subtotal	\$289,000

Construction Contract w/Change Order Allowance	\$2,750,000
Construction Management/Inspection (by Contract or City)	\$350,000
Other Construction Costs including furniture, and Inter-City Services.	\$170,000
<i>Subtotal</i>	\$3,270,000
TOTAL PROJECT COST	\$3,559,000

On September 29, 2009, the Redevelopment Agency Board allocated \$3,750,000 from the Agency's 2003A Tax Allocation Bond Fund for the Fire Department Administration Annex Project. With a total Project cost estimate of \$3,559,000, there are sufficient monies available in this account to cover the cost of the Project.

SUSTAINABILITY IMPACT:

The Project will incorporate green building materials and construction techniques to accomplish a LEED rating for new construction.

PREPARED BY: Joshua Haggmark, Principal Civil Engineer/LJ/mj
Brian Bosse, Housing and Redevelopment Manager

SUBMITTED BY: Christine F. Andersen, Public Works Director
Paul Casey, Community Development Director

APPROVED BY: City Administrator's Office



Agenda Item No. _____

File Code No. **540.03**

CITY OF SANTA BARBARA

COUNCIL AGENDA REPORT

AGENDA DATE: December 8, 2009

TO: Mayor and Councilmembers

FROM: City Administrator's Office

SUBJECT: Cachuma Operations And Maintenance Board Bond Discussion

RECOMMENDATION:

That Council receive a verbal report on the status of the Cachuma Operations Maintenance Board (COMB) Bond Issue and Capital Improvement Projects.

DISCUSSION:

Councilmember Das Williams and Water Resources Manager Rebecca Bjork will make the presentation.

PREPARED BY: Linda Gunther, Administrator's Office Supervisor

SUBMITTED BY: Jim Armstrong, City Administrator

APPROVED BY: City Administrator's Office



CITY OF SANTA BARBARA

COUNCIL AGENDA REPORT

AGENDA DATE: December 8, 2009

TO: Mayor and Councilmembers

FROM: Planning Division, Community Development Department

SUBJECT: Appeal Of Planning Commission Denial Of A Project At 617 Bradbury Avenue

RECOMMENDATION:

That Council uphold the appeal filed by David Lack to reverse the Planning Commission denial of the project, and approve the Modification and Tentative Subdivision Map, subject to the conditions of approval and findings outlined in Staff Hearing Officer Resolution No. 062-09. (MST2007-00559); direct applicant to restudy the architecture, and to submit to the Architectural Board of Review (ABR) a project with an architectural style similar to that of the buildings on the west side of Bradbury Avenue; and direct the ABR to allow a slight increase in the size, bulk and scale of the project, as required to change the architectural style of the building.

DISCUSSION:

Project Description

The proposed project involves the demolition of an existing single-family residence, and the construction of a 5,488 square foot (s.f.), three-story, mixed-use building with a maximum height of 29'8". The proposal will result in two residential condominiums and two commercial condominiums, with an on-grade parking structure with six spaces. Two bicycle parking spaces and a changing room are provided on-site. The residential units are two 1,506 s.f., two-bedroom, three-story units at the rear of the lot. The commercial units are a total of 998 s.f. and are located on the first and second floor adjacent to the street. The proposal includes 2,015 s.f. of green roof and upper level landscape plantings.

Background

The Architectural Board of Review (ABR) reviewed the project five times prior to the Staff Hearing Officer's (SHO) initial hearing. The project was forwarded to the SHO with positive comments on a split vote. On June 17, 2009, the SHO held a public hearing on the proposed project and continued the item to July 15, 2009, to allow the applicant to study alternate locations of the required 15' by 15' common open space or request for a modification for the dimension and/or location of the required area. The SHO also requested the applicant to restudy the amount of proposed parking and the provision of

private garages, and the proposed second story balconies to address concerns regarding privacy issues between the project site and adjacent properties. The SHO suggested that the project return to the ABR for additional comments related to the project's size, bulk, and scale and neighborhood compatibility.

On June 29, 2009, the ABR reviewed a project that was revised slightly to respond to the SHO's concerns. The ABR continued the item to the SHO with comments (4-2) from the Board that the size, bulk and scale were appropriate. The Board stated that it would support the design for the open yard to accommodate the user's need for outdoor living and in addition to provide a visual benefit to the community and a more neighborhood feel.

At the July 15, 2009, hearing, the SHO found that the revised project adequately responded to the direction previously given and approved the project. The SHO also requested the applicant to continue to work with the ABR to further reduce the mass, bulk, and scale of the building particularly in regards to the third floor mass and to further study the privacy issues regarding the rear second story deck. Subsequently, a neighbor filed an appeal.

A neighbor, Wanda Livernois, filed an appeal of the SHO decision, and a Planning Commission (PC) appeal hearing was held on September 10, 2009. After much discussion by the Planning Commission, the appeal was upheld, and the project was denied. A discussion of the reasons for the PC's denial are included in the "Issues" section of this staff report.

Subsequently, an appeal was filed by the property owner, David Lack of LEED Santa Barbara. The appeal letter states that the PC decision to uphold Ms. Livernois appeal was inappropriate, and requests that the Council overturn the Planning Commission's denial of the project (see Attachment 1 – Appeal Letter). The appellant states that the project findings can be made; specifically, that the project will not have an adverse impact on the neighborhood's aesthetics and with the approval of the Modification and the Tentative Subdivision Map, the project complies with the Zoning Ordinance and the General Plan.

Appeal Issues

Common Open Space Modification

The project exceeds the private open space requirement, as well as the 10% open space requirement. However, the project must also provide a common open space that is at least 15' by 15'. The purpose of the common open space is to provide some recreational open space for occupants of the building. The common open space is not allowed in the front yard (setback or remaining yard). In this instance, locating the common open space in the front yard provides greater relief to the existing streetscape

and results in a neighborhood benefit creating a larger setback and green space instead of additional building mass at the street with a common open space only available to the private owners of the property.

The proposed common open space as shown on the plans is approximately 15'6" by 22'6", and includes the main walkway; however, the SHO stated that the main walkway into the development should not be included in the common open space area and required that the common open space be shown to exclude the 3' 6" wide walkway, thus reducing the common open space dimensions to 12' by 22' 6". In addition, a large palm tree is located within the common open space area. The ABR found the location to be appropriate, with the design to be further refined. The Planning Commission did not seem to have issues with this Modification, and denied the project on different grounds.

Neighborhood Compatibility

The project site is located north of the Brinkerhoff Landmark District and across the street to the west from El Pueblo Viejo Landmark District (EPV). While in proximity to these historic districts, the site is not located within the districts. Brinkerhoff Avenue is comprised of designated historic resources and has a unique character, architectural style, site design layout, and landscaping design which unifies the entire block giving it a distinctly separate and distinguishable continuity. The eastern side of Bradbury Avenue has a variety of architectural styles. The Frazee building site which is a through lot to Chapala Street and is the only lot which fronts Bradbury Avenue. This western edge of EPV has been developed with larger two and three-story projects fronting Chapala Street. The pattern of development on the western side of the street has a series of one to three story buildings varying in architectural styles including Victorian and Craftsman styles.

While some neighbors have expressed their desire to see Bradbury Street become its own or an extension of the Brinkerhoff Landmark District, Staff believes that the area lacks enough architectural or historic integrity to support enlarging the Brinkerhoff Landmark District or to create a new historic district along Bradbury Avenue. As stated previously, the ABR's opinion was that the size, bulk and scale of the proposed building is appropriate and compatible with the neighborhood. The proposed structure is less than 30 feet tall, and the majority of the mass is setback from the street. There is no evidence that the construction of this project would have an adverse physical effect on either EPV or the Brinkerhoff District.

Neighborhood Aesthetics

The ABR thought that the modern style architecture was compatible with the overall neighborhood, but Staff believes that the Planning Commission's denial of the project is based on the proposed architecture (modern style, with flat roofs, straight parapets, and largely stucco finish), which is a marked departure from the architecture of neighboring buildings on the same side of Bradbury Avenue (Victorian or Craftsman style, with sloped roofs and wood siding).

The Commission denied the project due a specific clause in finding C.3 which stated that the project “will not have an adverse impact upon the neighborhood's aesthetics.” The Commission felt that the building should have similar setback from the front property line as the adjacent properties on the westerly side of Bradbury Avenue and should be of a similar architectural style. The Planning Commission voted 4-0-0 to grant the appeal and deny the project without prejudice, which allows the applicant to resubmit a substantially similar project within one year.

Conclusion

It is Staff's position that the SHO appropriately considered all relevant issues pertaining to the application and its land use decision and made the appropriate findings to approve the proposed project. However, Staff is also sympathetic to the Planning Commission's issue of architectural style. Staff believes that it would be appropriate to require that the architectural style be changed to be more compatible with the buildings on the west side of Bradbury Avenue. Although such a change in architectural style could result in an increase in building height (flat roofs to pitched roofs) and the potential loss of some of the sustainable features (green roof is proposed on the flat roof), Staff believes that this would be an appropriate trade-off.

RECOMMENDATION:

Therefore, Staff recommends that the Council: 1) uphold the appeal, reverse the Planning Commission decision to deny the project and approve the Modification and Tentative Subdivision Map making the findings and subject to the conditions contained in Staff Hearing Officer Resolution 062-09 (Attachment 3); 2) direct applicant to restudy the architecture, and to submit to the ABR, a project whose architectural style is similar to that of the buildings on the west side of Bradbury Avenue; and 3) direct the ABR to allow a slight increase in the size, bulk and scale of the project, as required to change the architectural style of the building.

NOTE: The Project Plans, Staff Hearing Officer Staff Reports, and Planning Commission Staff Report are provided under separate cover.

ATTACHMENTS:

1. Appeal letter dated September 25, 2009
2. Planning Commission Minutes, 9/17/09, and PC Resolution 037-09
3. Staff Hearing Officer Minutes, 7/15/09, and SHO Resolution 062-09

PREPARED BY: Suzanne Riegle, Assistant Planner

SUBMITTED BY: Paul Casey, Community Development Director

APPROVED BY: City Administrator's Office

RECEIVED

SEP 25 2009

8:45pm ST

CITY CLERK'S OFFICE
SANTA BARBARA

September 25, 2009

Santa Barbara City Clerk
735 Anacapa Street
Santa Barbara, CA 93101-2203

Re: 617 Bradbury, Santa Barbara, CA 93101 – MST 2007-00559
Appeal – Planning Commission's September 17, 2009 Decision

To Whom It May Concern:

This letter is to request an appeal to the Planning Commission decision on Thursday, September 17, 2009 and:

1. Uphold the July 15, 2009 Staff Hearing Officer's ("SHO") Resolution 062-09 with findings to approve the application on the above referenced mixed use development with finding to support a Modification and Tentative Subdivision Map
2. Uphold the June 11, 2009 and the July 9, 2009 Staff Hearing Officer Report Staff Reports recommendations of the both the Senior Planner and the Assistant Planner
3. Uphold the June 29, 2009 Architectural Board of Reviews ("ABR") findings for architectural style, neighborhood compatibility and mass, bulk and scale.
4. Support City Planning staff's work with applicant over the past 2 ½ years to produce a project that complies with all current Zoning Ordinances and the future General Plan Updates.
5. Overturn the Planning Commission's September 17, 2009 determination.

Project Description:

The project consists of the demolition of an existing 392 SF single family residence and the construction of a sustainable, 5,488 square foot mixed-use development. The proposal will result in two commercial condominiums (a total of 998 SF) located on the first and second floors (19'-0"), two 1,506 SF residential condominiums 55'-6" from the front property line at the rear of the building on the second and third floors (Parapet is 29'-8") and on-grade parking structure. The proposal consists of 2,015 SF of green roof and upper level landscape planting. Two bicycle parking spaces and a changing room are provided on-site.

The project is a modest development in the downtown corridor on a C-2 lot, conforms to the City's zoning and Building ordinances and policies of the General Plan. The sizing and massing of the project were deemed compatible with the surrounding neighborhood by staff, the ABR and the SHO and well below the permitted 60' permitted by code or the 40' height proposed by Measure B.

The project is not located in the El Pueblo Viejo Landmark District nor the Brinkerhoff Landmark District.

Applicant requested one modification to allow the required common open area to be located in the front yard and/or smaller than the required dimensions. The project exceeds the size requirements for the Common Open Space (333.25 SF proposed if the walkway is included and 258 SF if the walkway is not included. Both dimensions exceed the 225 SF required) but does not meet the location requirements due to conflicting interpretation of the ordinance ("frontyard" setback—none required in a C-2 zone vs. "frontyard"). Although other solutions were considered that would result in the project that did not require a modification request, it was determined by ABR, staff and SHO that locating it on the roof would reduce the ability to achieve a sustainable building that includes green roofs and solar panels and negatively impact the design resulting in additional mass being brought forward to the street and would not allow all users of the building to commonly use the open space as intended by ordinance.

The project was appealed to the Planning Commission on September 17, 2009 who overturned SHO approval disregarding staff recommendations and ABR findings. Applicant has followed the rules, worked closely with staff, ABR and SHO over the past 2 ½ years on a sustainable project designed by reputable LEED architects. The project is compatible with the ordinances and policies of the City of Santa Barbara and based on sound planning. Applicant appreciates the opinions of the neighbors and people in opposition, but believes the project should be approved based on fact not opinion. Here are some of the relevant facts for this project:

As stated in the Staff Hearing Office Report, this proposed project warrants approval based on the following:

- "The modification is consistent with the purposes and intent of the Zoning Ordinance because a useable common open space is provided in a location found to be acceptable by ABR, and each of the residential units is being provided with more than double the required private outdoor living space. ...mass, bulk and scale has been found appropriate by the ABR."
- "Tentative Subdivision Map is consistent with the City of Santa Barbara's Zoning Ordinance and General Plan...proposed use is CONSISTENT with the vision for the West Downtown neighborhood of the General plan."
- "...project complies with all provisions of the City's Condominium Ordinance..."
- "...project is found consistent with the policies of the City's General Plan including the Land Use and Housing Elements... [and] will provide residential development that is compatible with the surrounding neighborhood."
- "...[ABR] found the architecture and site design appropriate."

Exemplary Design MERITS of this project include:

- LEED Platinum Certification
- Built Green Santa Barbara Participation
- Exemplary use of green roofs and solar energy
- Setbacks on all sides in a zero-lot line district-2'-6" at ground flr. up to 7' at 2nd flr.
- Ample setbacks at the sidewalk
- Height Limit is 60'. This building is designed to 29'-8". Complies with upcoming Measure B height reduction of 40'

- All parking proposed onsite... cars hidden from view. Additional parking provided to reduce impacts on parking stressed street.
- Required 225sf of Common Open Space exceeded by 126sf on site - **351sf Provided**
- Required 84sf of Private Outdoor Living Space exceeded by 160sf/unit - **254sf Provided**
- Required 10% of lot Open Space exceeded by 7% - **17% Provided**
- Storm Water retention and natural filtering done onsite
- Appropriate Mixed-use project for transitional street/neighborhood. Use is consistent with commercial and multi-family buildings found on both sides of the street.
- "Pedestrian Friendly" approach to the sidewalk
- Architectural Styling appropriate to the structures located on street and within neighborhood
- Upper level massing set back almost half the lot the depth
- Third story massing minimized to 1500sf.
- 21'-3" (42%) building frontage at sidewalk setback 3'-6"
- Remainder of building setback 22'-6" from sidewalk

Thank you for your consideration.

Sincerely,



LEED Santa Barbara, LLC, owner
 420 E. Carrillo Street
 Santa Barbara, CA 93101
 (805) 963-3600

III. STAFF HEARING OFFICER APPEALS:

ACTUAL TIME: 1:06 P.M.

APPEAL OF WANDA LIVERNOIS OF THE APPLICATION OF CLAY AURELL, ARCHITECT FOR LEED SANTA BARBARA LLC, 617 BRADBURY AVENUE, 037-122-006, C-2 COMMERCIAL ZONES, GENERAL PLAN DESIGNATION: COMMERCIAL/RESIDENTIAL 12 UNITS/ACRE (MST2007-00559)

This is an appeal of the July 15, 2009 Staff Hearing Officer decision to approve a Modification and Tentative Subdivision Map. The project consists of the demolition of an existing duplex, and the construction of a sustainable, 5,488 square foot, three-story, mixed-use building. The proposal will result in two residential condominiums and two commercial condominiums, with an on-grade parking structure. Two bicycle parking spaces and a changing room are provided on-site. The residential units are two 1,506 s.f., two-bedroom, three-story units at the rear of the lot. The commercial units are a total of 998 s.f. and are located on the first and second floor adjacent to the street. The proposal includes 2,015 s.f. of green roof and upper level landscape plantings.

The discretionary applications required for this project are:

1. A Modification to allow the required common open area to be located in the front yard, and/or smaller than the required dimensions (SBMC §28.21.081.A.3. and §28.92.110.A); and
2. A Tentative Subdivision Map for a one-lot subdivision to create two (2) commercial and two (2) residential condominium units (SBMC 27.07 and 27.13).

The Environmental Analyst has determined that the project is exempt from further environmental review pursuant to the California Environmental Quality Guidelines Section 15303 (New Construction of Small Structures) and 15315 (Minor Land Use Divisions).

Case Planner: Suzanne Riegle, Assistant Planner
Email: SRiegle@SantaBarbaraCA.gov

Suzanne Riegle, Assistant Planner, gave the Staff presentation.

Dawn Sherry, Architectural Board of Review (ABR) member, summarized the ABR's consensus for making the compatibility finding and made herself available to answer any of the Planning Commission's questions.

Wanda Livernois, Appellant, gave the appellant presentation.

Clay Aurell, Architect, gave the applicant presentation, joined by David Lack, Owner.

Chair Larson opened the public hearing at 1:40 P.M.

The following people spoke in support of the appeal, or with concerns:

1. Paul Zink, Architectural Board of Review, stated that the ABR decision was very divided and the project needs more refinement.
2. Bill Mahan stated that the Tentative Subdivision Map finding C.3 could not have been made with regard to neighborhood compatibility
3. Joan Livingston, Allied Neighborhood Association: neighborhood incompatibility.
4. Jeanne Kahre: neighborhood incompatibility; size/bulk/scale.
5. Myfawny Learned: neighborhood incompatibility
6. Michael Terry, speaking for Caroline Vassallo: neighborhood incompatibility
7. Marcie Woolfolk: neighborhood incompatibility
8. Mary Louise Days: neighborhood incompatibility
9. Tim Buynak: neighborhood incompatibility
10. Kellem de Forest: size/bulk/scale
11. Mark Masslen: neighborhood incompatibility; size/bulk/scale
12. Robert Livernois, neighborhood incompatibility; size/bulk/scale

The following people spoke in opposition to the appeal:

1. Steve Yates
2. Andy Roteman
3. Mike McCormack

With no one else wishing to speak, the public hearing was closed at 2:21 P.M.

Staff answered the Planning Commission's questions about the 15' X 15' common open space dimensions; explained the required finding for sound community planning; the status of the rear property line, and summarized the projects five reviews by the ABR.

Mr. Aurell responded that the top of the parapet was below 30' and elaborated on the vegetation on the green roof and its low-water requirements.

The Commissioners made the following comments:

1. Commissioner Jacobs acknowledged the public input of the neighborhood. Puzzled that ABR found the project consistent with the existing neighborhood; did not see that the compatibility standard was met. Would like to see the project reviewed by the Historic Landmarks Committee and that story poles be mandatory. Cannot support the project and will uphold the appeal.
2. Commissioner Lodge appreciated that the applicant looked at the Victorian house across the street and used similar materials, but felt that the project needs to fit with the neighborhood.
3. Commissioner Jostes acknowledged the extent that the applicant has gone to make the project sustainable. Concerned with the project not being compatible with the neighborhood. The project maximizes use of the land at the expense of neighborhood compatibility.
4. Although the staff report described that the General Plan "envisioned that the properties from De La Vina to Chapala would transition over time from single

family residential to higher density residential or low intensity commercial uses,” the majority of the Commission believed that the General Plan described the area as a “transitional” neighborhood that provided a buffer between the residential areas to the west, and the commercial area to the east, rather than a neighborhood, “in transition” from one type of land use to another. Therefore, the Commission could not make the required finding and support project. Believes the scale and bulk can be reduced by reducing the bedroom sizes. The architecture needs to be softened. (Later review of the Land Use Element revealed that it describes the West Downtown neighborhood as follows: “...new apartment complexes are replacing older single-family houses as West Downtown continues in transition to higher density residential and commercial uses....”)

MOTION: Jacobs/Lodge

Assigned Resolution No. 037-09

Uphold the appeal and deny the project. Recommended that if the project is resubmitted, the Historic Landmarks Committee should be given a courtesy review.

This motion carried by the following vote:

Ayes: 4 Noes: 0 Abstain: 0 Absent: 3 (Bartlett, Thompson, White)

Scott Vincent, Assistant City Attorney, stated that per the Municipal Code, it was not in the Commission’s purview to designate which review board could review which projects.

MOTION: Jostes/Jacobs

Motion to reconsider the prior motion.

This motion carried by the following vote:

Ayes: 4 Noes: 0 Abstain: 0 Absent: 3 (Bartlett, Thompson, White)

MOTION: Jacobs/Lodge

Assigned Resolution No. 037-09

Uphold the appeal and deny the project.

This motion carried by the following vote:

Ayes: 4 Noes: 0 Abstain: 0 Absent: 3 (Bartlett, Thompson, White)

Chair Larson announced the ten calendar day appeal period.

Mr. Kato sought input from the Commission on following the recommendations of Review Boards, which in this instance had found the project compatible with the neighborhood. Mr. Jostes stated that findings are viewed consistent with the principles of sound community planning. Commissioners Jostes and Jacobs referenced the multi-review board meeting that was held in July 18, 2007, and given the changes in review board membership, recommended that a similar meeting be put together again.

Mr. Vincent stated that the system that came out of the July meeting led to compatibility criteria that was adopted in the Historic Landmarks Committee and Architectural Board of Review sections of Title 22, and gave a communication tool for each Board and Commission and does not necessitate that each review board would arrive at the same conclusion.

IV. ADMINISTRATIVE AGENDA

ACTUAL TIME: 3:00 P.M.

A. Committee and Liaison Reports.

1. Staff Hearing Officer Liaison Report

Chair Larson reported on the Staff Hearing Officer meeting of September 9, 2009.

2. Other Committee and Liaison Reports

a. Commissioner Lodge reported on the Downtown Parking Committee meeting of September 10, 2009.

B. Action on the review and consideration of the following Draft Minutes and Resolutions:

a. Draft Minutes of August 20, 2009

b. Resolution 030-09
500 N. Milpas Street

c. Resolution 031-09
226 and 232 Eucalyptus Drive

d. Resolution 032-09
803 N. Milpas Street

e. Draft Minutes of September 3, 2009

f. Resolution 033-09
124 Los Aguajes Avenue

MOTION: Jostes/Lodge

Continue the Minutes and Resolutions of August 20, 2009 to September 24, 2009
and approve the Minutes and Resolutions of September 3, 2009

This motion carried by the following vote:

Ayes: 4 Noes: 0 Abstain: As noted. Absent: 3 (Bartlett, Thompson, White)

VII. ADJOURNMENT

Chair Larson adjourned the meeting at 3:07 P.M.

Submitted by,



Julie Rodriguez, Planning Commission Secretary



City of Santa Barbara California

CITY OF SANTA BARBARA PLANNING COMMISSION

RESOLUTION NO. 037-09

617 BRADBURY AVENUE

FRONT YARD MODIFICATION AND TENTATIVE SUBDIVISION MAP

SEPTEMBER 17, 2009

**APPEAL OF WANDA LIVERNOIS OF THE APPLICATION OF CLAY AURELL,
ARCHITECT FOR LEED SANTA BARBARA LLC, 617 BRADBURY AVENUE, 037-122-006,
C-2 COMMERCIAL ZONES, GENERAL PLAN DESIGNATION:
COMMERICAL/RESIDENTIAL 12 UNITS/ACRE (MST2007-00559)**

This was an appeal of the July 15, 2009 Staff Hearing Officer decision to approve a Modification and Tentative Subdivision Map. The project consists of the demolition of an existing duplex, and the construction of a sustainable, 5,488 square foot, three-story, mixed-use building. The proposal will result in two residential condominiums and two commercial condominiums, with an on-grade parking structure. Two bicycle parking spaces and a changing room are provided on-site. The residential units are two 1,506 s.f., two-bedroom, three-story units at the rear of the lot. The commercial units are a total of 998 s.f. and are located on the first and second floor adjacent to the street. The proposal includes 2,015 s.f. of green roof and upper level landscape plantings.

The discretionary applications required for this project are:

1. A Modification to allow the required common open area to be located in the front yard, and/or smaller than the required dimensions (SBMC §28.21.081.A.3. and §28.92.110.A); and
2. A Tentative Subdivision Map for a one-lot subdivision to create two (2) commercial and two (2) residential condominium units (SBMC 27.07 and 27.13).

The Environmental Analyst has determined that the project is exempt from further environmental review pursuant to the California Environmental Quality Guidelines Section 15303 (New Construction of Small Structures) and 15315 (Minor Land Use Divisions).

WHEREAS, the Planning Commission has held the required public hearing on the above application, and the Applicant was present.

WHEREAS, 12 people appeared to speak in favor of the appeal, and 3 people appeared to speak in opposition thereto, and the following exhibits were presented for the record:

1. Staff Report with Attachments, September 10, 2009
2. Site Plans
3. Correspondence received in support of the appeal, or with concerns:
 1. Judy Orias, Allied Neighborhood Association, via email
 2. Caroline Vassallo, via email
 3. Marcella Woolfolk, via email

4. James and Kathleen Smock, via email
5. Jeanne Kahre, via email
6. Karen McFadden, via email
7. Wanda Livernois, via email
8. Neighborhood petition with 20 signatures
9. Theony Condos, via email
10. Naomi Kovacs, Citizens Planning Association, via email
11. Barry Dubin, via email
12. Deidre Dubin, via email
13. John Vasi, Santa Barbara, CA
14. Wendy Foster, via email
15. Barbara Prumeau, Santa Barbara, CA
16. Mark Maslan and Ann Cumming, Santa Barbara, CA
17. Correspondence received in opposition to the appeal:
18. Clay Aurell, via email
19. Greg Griffin, via email
20. Barry Winick, via email
21. Mike McCormack, Santa Barbara, CA

NOW, THEREFORE BE IT RESOLVED that the City Planning Commission upheld the appeal and denied the project due to the inability to make finding C.3 found on page 4 of the July 15, 2009 Staff Hearing Officer Staff Report.

This motion was passed and adopted on the 17th day of September, 2009 by the Planning Commission of the city of Santa Barbara, by the following vote:

AYES: 4 NOES: 0 ABSTAIN: 0 ABSENT: 3 (Bartlett, Thompson, White)

PLANNING COMMISSION RESOLUTION No. 037-09
617 BRADBURY AVENUE
SEPTEMBER 17, 2009
PAGE 3

I hereby certify that this Resolution correctly reflects the action taken by the city of Santa Barbara Planning Commission at its meeting of the above date.



Julie Rodriguez, Planning Commission Secretary



Date

THIS ACTION OF THE PLANNING COMMISSION CAN BE APPEALED TO THE CITY COUNCIL WITHIN TEN (10) DAYS AFTER THE DATE THE ACTION WAS TAKEN BY THE PLANNING COMMISSION.

The Public Hearing was opened at 9:46 a.m.

Cathey Wilkins, opposed: design will build upon, intensify and extend the life of the existing non-conforming structures (submitted written comments and photographs).

The public hearing was closed at 9:55 a.m.

Ms. Reardon stated that the proposed second garage sink is to be removed, and if the garage were to be, the new garage must meet 20'x20' interior clear space dimension. Ms. Reardon also stated that if the hedge height posed a visibility issue, it may be required to be trimmed during the plan check process.

ACTION:

Assigned Resolution No. 061-09

Approved the subject application making the finding that the Modification is consistent with the purposes and intent of the Zoning Ordinance and is necessary to secure an appropriate improvement on the lot. The proposed roof change is appropriate because it will allow the existing garage to be upgraded architecturally to match the new residential design with minimal change to existing conditions.

Said approval is subject to the conditions that the second sink in the garage is to be removed, and if the garage is to be demolished, the new garage interior space shall measure 20' x 20'.

The ten calendar day appeal period to the Planning Commission and subject to suspension for review by the Planning Commission was announced.

ACTUAL TIME: 9:59 A.M.

CONTINUED FROM JUNE 17, 2009

E. APPLICATION OF CLAY AURELL, ARCHITECT FOR LEED SANTA BARBARA LLC, 617 BRADBURY AVENUE, 037-122-006, C-2 COMMERCIAL ZONES, GENERAL PLAN DESIGNATION: COMMERCIAL/RESIDENTIAL 12 UNITS/ACRE (MST2007-00559)

The project consists of the demolition of an existing duplex, and the construction of a sustainable, 5,897 square foot, three-story, mixed-use building. The proposal will result in two residential condominiums and two commercial condominiums, with an on-grade parking structure. Bicycle parking and a changing room are provided within the garage structure. The residential units are 1,508 square feet, two-bedroom, and three-story units at the rear of the lot. The commercial units are a total of 983 square feet and are located on the first and second floor adjacent to the street. The proposal includes 2,015 square feet of green roof and upper level landscape plantings.

The discretionary applications required for this project are:

1. A Modification to allow the required common open area to be located in the front yard, and/or smaller than the required dimensions (SBMC §28.21.081.A.3. and §28.92.110.A); and
2. A Tentative Subdivision Map for a one-lot subdivision to create two (2) commercial and two (2) residential condominium units (SBMC 27.07 and 27.13).

The Environmental Analyst has determined that the project is exempt from further environmental review pursuant to the California Environmental Quality Guidelines Section 15303 (New Construction of Small Structures) and 15315 (Minor Land Use Divisions).

Danny Kato, Senior Planner, gave the Staff presentation and recommendation. Mr. Kato stated that the project was continued from the previous SHO hearing due to an error in failing to note that the Zoning Ordinance requires a 15x15 open space on the lot which cannot be located in the front yard. The 15x15 open space proposed in the front yard does not meet Zoning Ordinance requirements. Mr. Kato reported on the ABR's comments and concerns.

Mr. Kato stated that the three foot wide strip of land to the west of this site is owned by the heirs of the original subdivision, not the City as previously thought.

Present: Clay Aurell, Architect; Josh Blummer, Associate; Fae Perry and David Black, Owners; Jack Kessel, Landscape Architect.

Ms. Reardon announced that she read the Staff Report for the proposed project and also visited the site and surrounding neighborhood.

Ms. Reardon asked whether other areas were considered for the open space. Mr. Aurell stated that staff suggested having open space on the roof, but ADA issues prevented that option. An alternative was to utilize space at an upper level deck, but the 15 foot dimension was not acceptable. The best option was to have open space at the ground plane.

The Public Hearing was opened at 10:35 a.m.

Caroline Vassallo, opposed: three ABR members had problems with size, bulk, scale, and were concerned about lack of story poles. Not opposed to mixed use, but sensitivity of street charm is needed.

Wanda Livernois: surprised by applicant's problem with uncovered parking; requested copies of story pole photographs.

Robert Livernois: questioned whether story poles were installed; opposed to tree removal; supported the parking.

Andy Roteman: in support of the modification; having open yard space in front is the best option.

A letter in support of the project from Greg Griffin was acknowledged.

Two letters in opposition of the project from Karen McFadden and Theony Condos.

The Public Hearing was closed at 10:47 a.m.

Ms. Reardon questioned whether there is room to have an open garage and a closed garage for each unit. Ms. Swanson explained that it might be reasonable to reduce the garage width by 6 inches providing a garage narrower for the single user, allowing the open shared garage space to be wider.

Ms. Reardon stated that the added planters on the second story decks that are to be located on the north and south sides responds adequately to her previous concerns, but requested the ABR to restudy the privacy issues related to the proposed balconies on the west (rear) side of the proposed building for an appropriate solution. Ms. Reardon also asked the applicant to work with the ABR to further reduce the mass, bulk and scale of the building in particular with regards to the third floor mass.

ACTION:

Assigned Resolution No. 062-09

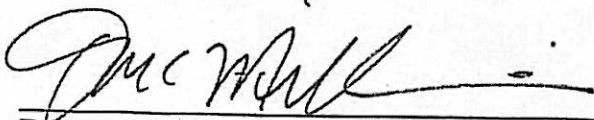
Approved the subject application making the findings contained in the Staff Report dated July 9, 2009, as revised at the hearing, and subject to the Conditions of Approval contained in Exhibit A of the Staff Report dated June 11, 2009, as revised at the hearing, with the following conditions: 1) B.1: revise to state "...parking is provided in two residential one-car garages and five open parking spaces..."; 2) B.2: delete "the following three protection measures shall be incorporated" and 3) add the new condition "H.7. Story Pole Photographic Record. The applicant shall submit photographs of the completed building from the same locations as the photographs taken of the story pole installation for recordation purposes."

The ten calendar day appeal period to the Planning Commission and subject to suspension for review by the Planning Commission was announced.

III. ADJOURNMENT:

Ms. Reardon adjourned the meeting at 11:46 a.m.

Submitted by,



Deana McMillion, Administrative/Clerical Supervisor on behalf of
Gloria Shafer, Staff Hearing Officer Secretary



City of Santa Barbara California

CITY OF SANTA BARBARA STAFF HEARING OFFICER

RESOLUTION NO. 062-09

617 BRADBURY AVENUE

MODIFICATION AND TENTATIVE SUBDIVISION MAP

JULY 15, 2009

**APPLICATION OF CLAY AURELL, ARCHITECT FOR LEED SANTA BARBARA LLC,
617 BRADBURY AVENUE, 037-122-006, C-2 COMMERCIAL ZONES, GENERAL PLAN
DESIGNATION: COMMERCIAL/RESIDENTIAL 12 UNITS/ACRE (MST2007-00559)**

The project consists of the demolition of an existing single-family residence, and the construction of a sustainable, 5,897 square foot, three-story, mixed-use building. The proposal will result in two residential condominiums and two commercial condominiums, with an on-grade parking structure. Bicycle parking and a changing room are provided within the garage structure. The residential units are 1,508 square foot, two-bedroom, and three-story units at the rear of the lot. The commercial units are a total of 983 square feet and are located on the first and second floor adjacent to the street. The proposal includes 2,015 square feet of green roof and upper level landscape plantings.

The discretionary applications required for this project are:

1. A Modification to allow the required common open area to be located in the front yard, and/or smaller than the required dimensions (SBMC §28.21.081.A.3. and §28.92.110.A); and
2. A Tentative Subdivision Map for a one-lot subdivision to create two (2) commercial and two (2) residential condominium units (SBMC 27.07 and 27.13).

The Environmental Analyst has determined that the project is exempt from further environmental review pursuant to the California Environmental Quality Guidelines Section 15303 (New Construction of Small Structures) and 15315 (Minor Land Use Divisions).

WHEREAS, the Staff Hearing Officer has held the required public hearing on the above application, and the Applicant was present.

WHEREAS, one person appeared to speak in favor of the application, and three people appeared to speak in opposition thereto, and the following exhibits were presented for the record:

1. Staff Report with Attachments, July 9, 2009.
2. Staff Report and Attachments, June 17, 2009.
3. Site Plans
4. Correspondence received in support of the project:
Greg Griffin, 428 De La Vina Street, Santa Barbara, CA

5. Correspondence received in opposition to the project:
 - a. Theony Candos, 4754 Camino del Rey, Santa Barbara, CA
 - b. Karen McFadden, submitted via e-mail

NOW, THEREFORE BE IT RESOLVED that the City Staff Hearing Officer:

I. Approved the subject application making the following findings and determinations:

A. Modification (SBMC §28.21.081.A.3. and §28.92.110.A)

The modification is consistent with the purposes and intent of the Zoning Ordinance and is necessary to secure an appropriate improvement of the lot. Each of the residential units of this mixed-use building has more than double the required private outdoor living space which provides adequate useable outdoor area. The proposed 270 square foot common open space, although it does not meet minimum dimensions, provides adequate useable outdoor space for both the commercial and residential tenants.

B. Tentative Map (SBMC §27.07.100)

With approval of the Modification, the Tentative Subdivision Map is consistent with the City of Santa Barbara's Zoning Ordinance and General Plan as discussed in Sections V and VI of the June 11, 2009, staff report. The site is physically suitable for the proposed development, and the proposed use is consistent with the vision for the West Downtown neighborhood of the General Plan.

As discussed in Section VIII of the June 11, 2009, staff report, the design of the project will not cause substantial environmental damage, and associated improvements will not cause serious public health problems

C. New Condominium Development (SBMC §27.13.080)

1. As demonstrated in Section V and VI of the June 11, 2009, staff report, and with approval of the modification of the common open area, the project complies with all provisions of the City's Condominium Ordinance, including density requirements, laundry facilities, separate utility metering, adequate unit size, and the required private outdoor living space.

2. The proposed development is consistent with the General Plan of the city of Santa Barbara.

The project is found consistent with policies of the City's General Plan including the Land Use and Housing Elements, as discussed in Section VII.B of the June 11, 2009, staff report. The project will provide residential development that is compatible with the surrounding neighborhood.

3. The proposed development is consistent with the principles of sound community planning and will not have an adverse impact upon the neighborhood's aesthetics, parks, streets, traffic, parking and other community facilities and resources.

The project is an infill residential project proposed in an area where residential development is a permitted use. The design has been reviewed by the Architectural Board of Review, which found the architecture and site design appropriate. The project is adequately served by public streets, will provide adequate parking to meet the demands of the project and will not result in traffic impacts, as described in the June 11, 2009, staff report. In addition, a stated goal of the project is LEED Platinum certification.

- II. In consideration of the project approval granted by the Staff Hearing Officer and for the benefit of the owner(s) and occupant(s) of the Real Property, the owners and occupants of adjacent real property and the public generally, the following terms and conditions are imposed on the use, possession, and enjoyment of the Real Property:
 - A. **Design Review.** The project is subject to the review and approval of the Architectural Board of Review (ABR). ABR shall not grant preliminary approval of the project until the following Staff Hearing Officer land use conditions have been satisfied.
 1. **Useable Common Open Space.** Adequate usable common open space shall be provided in a location accessible by all units within the development.
 2. **Pedestrian Pathway.** A separate pedestrian pathway shall be provided to the units at the rear of the property from the sidewalk using a different walkway material.
 3. **Minimize Visual Effect of Paving.** Textured or colored pavement shall be used in paved areas of the project to minimize the visual effect of the expanse of paving, create a pedestrian environment, and provide access for all users.
 4. **Screened Check Valve/Backflow.** The check valve or anti-backflow devices for fire sprinkler and/or irrigation systems shall be provided in a location screened from public view or included in the exterior wall of the building.
 - B. **Recorded Conditions Agreement.** Prior to the issuance of any Public Works permit or Building permit for the project on the Real Property, the Owner shall execute an "Agreement Relating to Subdivision Map Conditions Imposed on Real Property," which shall be reviewed as to form and content by the City Attorney, Community Development Director and Public Works Director, recorded in the Office of the County Recorder, and shall include the following:

1. **Approved Development.** The development of the Real Property approved by the Staff Hearing Officer on July 15, 2009, is limited to a three-story, 5,978 square foot mixed use building on a 5,000 square foot lot located in the Central Business District. The proposal includes two residential condominiums and two commercial condominium units totaling 918 square feet of non-residential square footage. Parking is provided in two residential one-car garages and four open parking spaces (1 parking space is accessible) on the ground floor of the project and the improvements shown on the Tentative Subdivision Map signed by the Staff Hearing Officer on said date and on file at the City of Santa Barbara.
2. **Uninterrupted Water Flow.** The Owner shall provide for the uninterrupted flow of water onto the Real Property including, but not limited to, swales, natural watercourses, conduits and any access road, as appropriate.
3. **Recreational Vehicle Storage Prohibition.** No recreational vehicles, boats, or trailers shall be stored on the Real Property.
4. **Landscape Plan Compliance.** The Owner shall comply with the Landscape Plan approved by the Architectural Board of Review (ABR). Such plan shall not be modified unless prior written approval is obtained from the ABR. The landscaping on the Real Property shall be provided and maintained in accordance with said landscape plan. If said landscaping is removed for any reason without approval by the ABR, the owner is responsible for its immediate replacement.
5. **Storm Water Pollution Control and Drainage Systems Maintenance.** Owner shall maintain the drainage system and storm water pollution control devices intended to intercept siltation and other potential pollutants (including, but not limited to, hydrocarbons, fecal bacteria, herbicides, fertilizers, etc.) in a functioning state (and in accordance with the Operations and Maintenance Procedure Plan prepared in accordance with the Storm Water Management Plan BMP Guidance Manual). Should any of the project's surface or subsurface drainage structures or storm water pollution control methods fail to capture, infiltrate, and/or treat water, or result in increased erosion, the Owner shall be responsible for any necessary repairs to the system and restoration of the eroded area. Should repairs or restoration become necessary, prior to the commencement of such repair or restoration work, the applicant shall submit a repair and restoration plan to the Community Development Director to determine if an amendment or a new Building Permit is required to authorize such work. The Owner is responsible for the adequacy of any project-related drainage facilities and for the continued maintenance thereof in a manner that will preclude any hazard to life, health, or damage to the Real Property or any adjoining property.

6. **Required Private Covenants.** The Owners shall record in the official records of Santa Barbara County either private covenants, a reciprocal easement agreement, or a similar agreement which, among other things, shall provide for all of the following:
 - a. **Common Area Maintenance.** An express method for the appropriate and regular maintenance of the common areas, common access ways, common utilities and other similar shared or common facilities or improvements of the development, which methodology shall also provide for an appropriate cost-sharing of such regular maintenance among the various owners of the condominium units.
 - b. **Garages Available for Parking.** A covenant that includes a requirement that all garages be kept open and available for the parking of vehicles owned by the residents of the property in the manner for which the garages were designed and permitted.
 - c. **Landscape Maintenance.** A covenant that provides that the landscaping shown on the approved Landscaping Plan shall be maintained and preserved at all times in accordance with the Plan.
 - d. **Trash and Recycling.** Trash holding areas shall include recycling containers with at least equal capacity as the trash containers, and trash/recycling areas shall be easily accessed by the consumer and the trash hauler. Green waste shall either have containers adequate for the landscaping or be hauled off site by the landscaping maintenance company. If no green waste containers are provided for common interest developments, include an item in the CC&Rs stating that the green waste will be hauled off site.
 - e. **Gates.** Any gates that have the potential to block access to any designated commercial space shall be locked in the open position during business hours.
 - f. **Covenant Enforcement.** A covenant that permits each owner to contractually enforce the terms of the private covenants, reciprocal easement agreement, or similar agreement required by this condition.
7. **Use Limitations.** Due to potential parking impacts, the conversion of residential units to commercial floor area is not permitted without further environmental and/or Staff Hearing Officer review and approval. Prior to initiating a change of use, the Owner shall submit a letter to the Community Development Director detailing the proposal, and the Director shall determine the appropriate review procedure and notify the Applicant.

- C. **Public Works Submittal Prior to Parcel Map Approval.** The Owner shall submit the following, or evidence of completion of the following, to the Public Works Department for review and approval, prior to processing the approval of the Parcel Map and prior to the issuance of any permits for the project:
1. **Parcel Map.** The Owner shall submit to the Public Works Department for approval, a Parcel Map prepared by a licensed land surveyor or registered Civil Engineer. The Parcel Map shall conform to the requirements of the City Survey Control Ordinance.
 2. **Water Rights Assignment Agreement.** The Owner shall assign to the City of Santa Barbara the exclusive right to extract ground water from under the Real Property in an *Agreement Assigning Water Extraction Rights*. Engineering Division Staff will prepare said agreement for the Owner's signature.
 3. **Required Private Covenants.** The Owner shall submit a copy of the recorded private covenants, reciprocal easement agreement, or similar private agreements required for the project. If the private covenants required pursuant to Section B.6. above have not yet been approved by the Department of Real Estate, a draft of such covenants shall be submitted.
 4. **Drainage Calculations/Hydrology Report.** The Owner shall submit drainage calculations prepared by a registered civil engineer demonstrating that the new development will not increase runoff amounts above existing conditions for a 25-year storm event. Any increase in runoff shall be retained on-site.
 5. **Drainage and Water Quality.** Project drainage shall be designed, installed, and maintained such that stormwater runoff from the first inch of rain from any storm event shall be retained and treated onsite in accordance with the City's NPDES Storm Water Management Program. Runoff should be directed into a passive water treatment method such as a bioswale, landscape feature (planter beds and/or lawns), infiltration trench, etc. Project plans for grading, drainage, stormwater treatment methods, and project development, shall be subject to review and approval by City Building Division and Public Works Department. Sufficient engineered design and adequate measures shall be employed to ensure that no significant construction-related or long-term effects from increased runoff, erosion and sedimentation, urban water pollutants, or groundwater pollutants would result from the project. The Owner shall maintain the drainage system and storm water pollution control methods in a functioning state.
 6. **Bradbury Avenue Public Improvements.** The Owner shall submit building plans for construction of improvements along the property frontage on Bradbury Avenue. As determined by the Public Works Department, the improvements shall include the following: sidewalk (width to match existing), parkway, supply on a install one 36 inch minimum box size Pyrus kawakamii (Evergreen Pear), residential driveway apron modified to meet Title 24 requirements, raise

existing sandstone curb, crack seal to the centerline of the street along entire subject property frontage and slurry seal a minimum of 20 feet beyond the limit of all trenching, connection to City water and sewer mains, one new sewer lateral, public drainage improvements with supporting drainage calculations for installation of curb drain outlets, preserve and/or reset survey monuments and contractor stamps, supply and install directional/regulatory traffic control signs per MUTCD with CA supplements, new street trees and tree grates per approval of the City Arborist and provide adequate positive drainage from site. Any work in the public right-of-way requires a Public Works Permit.

7. **Land Development Agreement.** The Owner shall submit an executed *Agreement for Land Development Improvements*, prepared by the Engineering Division, an Engineer's Estimate, signed, and stamped by a registered civil engineer, and securities for construction of improvements prior to execution of the agreement, and prior to recordation of the map if improvements are not complete at the time of map recordation.
 8. **Removal or Relocation of Public Facilities.** Removal or relocation of any public utilities or structures must be performed by the Owner or by the person or persons having ownership or control thereof.
- D. **Public Works Requirements Prior to Building Permit Issuance.** The Owner shall submit the following, or evidence of completion of the following to the Public Works Department for review and approval, prior to the issuance of a Building Permit for the project.
1. **Recordation of Parcel Map Agreements.** After City Council approval, the Owner shall provide evidence of recordation to the Public Works Department, or shall submit securities for the public improvements if map recordation is deferred until following construction.
- E. **Community Development Requirements with the Building or Public Works Permit Application.** The following shall be submitted with the application for any Building or Public Works permit:
1. **Neighborhood Notification Prior to Construction.** At least twenty (20) days prior to commencement of construction, the contractor shall provide written notice to all property owners, businesses, and residents within 300 feet of the project area. The notice shall contain a description of the project, the construction schedule, including days and hours of construction, the name and phone number of the Contractor(s), site rules and Conditions of Approval pertaining to construction activities and any additional information that will assist the Building Inspectors, Police Officers and the public in addressing problems that may arise during construction. The language of the notice and the mailing list shall be reviewed and approved by the Planning Division prior to being distributed. An affidavit signed by the person(s) who compiled the mailing list shall be submitted to the Planning Division.

2. **Contractor and Subcontractor Notification.** The Owner shall notify in writing all contractors and subcontractors of the site rules, restrictions, and Conditions of Approval. Submit a copy of the notice to the Planning Division.
 3. **Traffic Control Plan.** A traffic control plan shall be submitted, as specified in the City of Santa Barbara Traffic Control Guidelines. Traffic Control Plans are subject to approval by the Transportation Manager.
 4. **Green Building Techniques Required.** Owner shall design the project to meet Santa Barbara Built Green Two-Star Standards and strive to meet the Three-Star Standards.
 5. **Tenant Displacement Assistance Ordinance Compliance.** Submit evidence of compliance with the Tenant Displacement Assistance Ordinance (SBMC Chapter 28.89).
- F. **Building Permit Plan Requirements.** The following requirements/notes shall be incorporated into the construction plans submitted to the Building and Safety Division for Building permits:
1. **Design Review Requirements.** Plans shall show all design, landscape and tree protection elements, as approved by the Architectural Board of Review, outlined in Section A above.
 2. **Grading Plan Requirement for Archaeological Resources.** The following information shall be printed on the grading plans:

If archaeological resources are encountered or suspected, work shall be halted or redirected immediately and the Planning Division shall be notified. The archaeologist shall assess the nature, extent, and significance of any discoveries and develop appropriate management recommendations for archaeological resource treatment, which may include, but are not limited to, redirection of grading and/or excavation activities, consultation and/or monitoring with a Barbareño Chumash representative from the most current City Qualified Barbareño Chumash Site Monitors List, etc.

If the discovery consists of possible human remains, the Santa Barbara County Coroner shall be contacted immediately. If the Coroner determines that the remains are Native American, the Coroner shall contact the California Native American Heritage Commission. A Barbareño Chumash representative from the most current City Qualified Barbareño Chumash Site Monitors List shall be retained to monitor all further subsurface disturbance in the area of the find. Work in the area may only proceed after the Planning Division grants authorization.

If the discovery consists of possible prehistoric or Native American artifacts or materials, a Barbareño Chumash representative from the most current City Qualified Barbareño Chumash Site Monitors List shall be retained to monitor all further subsurface disturbance in the area of the find. Work in the area may only proceed after the Planning Division grants authorization.

3. **Post-Construction Erosion Control and Water Quality Plan.** Provide an engineered drainage plan that addresses the existing drainage patterns and leads towards improvement of the quality and rate of water run-off conditions from the site by capturing, infiltrating, and/or treating drainage and preventing erosion. The Owner shall employ passive water quality methods, such as bioswales, catch basins, or storm drain on the Real Property, or other measures specified in the Erosion Control Plan, to intercept all sediment and other potential pollutants (including, but not limited to, hydrocarbons, fecal bacteria, herbicides, fertilizers, etc.) from the parking lot areas and other improved, hard-surfaced areas prior to discharge into the public storm drain system, including any creeks. All proposed methods shall be reviewed and approved by the Public Works Department and the Community Development Department. Maintenance of these facilities shall be provided by the Owner, as outlined in Condition C.5. above, which shall include the regular sweeping and/or vacuuming of parking areas and drainage and storm water methods maintenance program.
4. **Emergency Evacuation Plan.** Provide an emergency evacuation plan subject to approval by the Fire Department.
5. **Trash Enclosure Provision.** A trash enclosure with adequate area for recycling containers (an area that allows for a minimum of 50 percent of the total capacity for recycling containers) shall be provided on the Real Property and screened from view from surrounding properties and the street.

Dumpsters and containers with a capacity of 1.5 cubic yards or more shall not be placed within five (5) feet of combustible walls, openings, or roofs, unless protected with fire sprinklers.

6. **Conditions on Plans/Signatures.** The final Staff Hearing Officer Resolution shall be provided on a full size drawing sheet as part of the drawing sets. Each condition shall have a sheet and/or note reference to verify condition compliance. If the condition relates to a document submittal, indicate the status of the submittal (e.g., Final Map submitted to Public Works Department for review). A statement shall also be placed on the above sheet as follows: The undersigned have read and understand the above conditions, and agree to abide by any and all conditions which is their usual and customary responsibility to perform, and which are within their authority to perform.

Signed:

Property Owner	Date
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Contractor	Date	License No.
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Architect	Date	License No.
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Engineer	Date	License No.
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G. **Construction Implementation Requirements.** All of these construction requirements shall be carried out in the field by the Owner and/or Contractor for the duration of the project construction.

1. **Demolition/Construction Materials Recycling.** Recycling and/or reuse of demolition/construction materials shall be carried out to the extent feasible, and containers shall be provided on site for that purpose, in order to minimize construction-generated waste conveyed to the landfill. Indicate on the plans the location of a container of sufficient size to handle the materials, subject to review and approval by the City Solid Waste Specialist, for collection of demolition/construction materials. A minimum of 90% of demolition and construction materials shall be recycled or reused. Evidence shall be submitted at each inspection to show that recycling and/or reuse goals are being met.
2. **Sandstone Curb Recycling.** Any existing sandstone curb in the public right-of-way that is removed and not reused shall be salvaged and sent to the City Corporation Annex Yard.
3. **Construction-Related Truck Trips.** Construction-related truck trips shall not be scheduled during peak hours (7:00 a.m. to 9:00 a.m. and 4:00 p.m. to 6:00 p.m.). The purpose of this condition is to help reduce truck traffic on adjacent streets and roadways.
4. **Construction Related Traffic Routes.** The route of construction-related traffic shall be established to minimize trips through surrounding residential neighborhoods, subject to approval by the Transportation Manager.
5. **Haul Routes.** The haul route(s) for all construction-related trucks with a gross vehicle weight rating of three tons or more, entering or exiting the site, shall be approved by the Transportation Manager.
6. **Traffic Control Plan.** All elements of the approved Traffic Control Plan shall be carried out by the Contractor.

7. **Construction Hours.** Construction (including preparation for construction work) is prohibited Monday through Friday before 7:00 a.m. and after 5:00 p.m., and all day on Saturdays, Sundays and holidays observed by the City of Santa Barbara, as shown below: (look at longer or shorter hours and Saturday construction, depending on project location)

New Year's Day	January 1st*
Martin Luther King's Birthday	3rd Monday in January
Presidents' Day	3rd Monday in February
Cesar Chavez Day	March 31 st *
Memorial Day	Last Monday in May
Independence Day	July 4th*
Labor Day	1st Monday in September
Thanksgiving Day	4th Thursday in November
Following Thanksgiving Day	Friday following Thanksgiving Day
Christmas Day	December 25th*

*When a holiday falls on a Saturday or Sunday, the preceding Friday or following Monday, respectively, shall be observed as a legal holiday.

When, based on required construction type or other appropriate reasons, it is necessary to do work outside the allowed construction hours, contractor shall contact the Chief of Building and Safety to request a waiver from the above construction hours, using the procedure outlined in Santa Barbara Municipal Code §9.16.015 Construction Work at Night. Contractor shall notify all residents within 300 feet of the parcel of intent to carry out night construction a minimum of 48 hours prior to said construction. Said notification shall include what the work includes, the reason for the work, the duration of the proposed work and a contact number.

8. **Construction Parking/Storage/Staging.** Construction parking and storage shall be provided as follows:
- During construction, free parking spaces for construction workers and construction shall be provided on-site or off-site in a location subject to the approval of the Public Works Director. Construction workers are prohibited from parking within the public right-of-way, except as outlined in subparagraph b. below.
 - Parking in the public right of way is permitted as posted by Municipal Code, as reasonably allowed for in the 2006 Greenbook (or latest reference), and with a Public Works permit in restricted parking zones. No more than three (3) individual parking permits without extensions may be issued for the life of the project.

- c. Storage or staging of construction materials and equipment within the public right-of-way shall not be permitted, unless approved by the Transportation Manager.
9. **Existing Tree Preservation.** The existing tree(s) shown on the approved Tentative Subdivision Map and Site Plan to be saved shall be preserved and protected and fenced three feet outside the dripline during construction.
10. **Construction Equipment Maintenance.** All construction equipment, including trucks, shall be professionally maintained and fitted with standard manufacturers' muffler and silencing devices.
11. **Graffiti Abatement Required.** Owner and Contractor shall be responsible for removal of all graffiti as quickly as possible. Graffiti not removed within 24 hours of notice by the Building and Safety Division may result in a Stop Work order being issued, or may be removed by the City, at the Owner's expense, as provided in SBMC Chapter 9.66.
12. **Unanticipated Archaeological Resources Contractor Notification.** Prior to the start of any vegetation or paving removal, demolition, trenching or grading, contractors and construction personnel shall be alerted to the possibility of uncovering unanticipated subsurface archaeological features or artifacts associated with past human occupation of the parcel. If such archaeological resources are encountered or suspected, work shall be halted immediately, the City Environmental Analyst shall be notified and the applicant shall retain an archaeologist from the most current City Qualified Archaeologists List. The latter shall be employed to assess the nature, extent and significance of any discoveries and to develop appropriate management recommendations for archaeological resource treatment, which may include, but are not limited to, redirection of grading and/or excavation activities, consultation and/or monitoring with a Barbareño Chumash representative from the most current City qualified Barbareño Chumash Site Monitors List, etc.

If the discovery consists of possible human remains, the Santa Barbara County Coroner shall be contacted immediately. If the Coroner determines that the remains are Native American, the Coroner shall contact the California Native American Heritage Commission. A Barbareño Chumash representative from the most current City Qualified Barbareño Chumash Site Monitors List shall be retained to monitor all further subsurface disturbance in the area of the find. Work in the area may only proceed after the Environmental Analyst grants authorization.

If the discovery consists of possible prehistoric or Native American artifacts or materials, a Barbareño Chumash representative from the most current City Qualified Barbareño Chumash Site Monitors List shall be retained to monitor all further subsurface disturbance in the area of the find. Work in the area may only proceed after the Environmental Analyst grants authorization.

- H. **Prior to Certificate of Occupancy.** Prior to issuance of the Certificate of Occupancy, the Owner of the Real Property shall complete the following:
1. **Repair Damaged Public Improvements.** Repair any damaged public improvements (curbs, gutters, sidewalks, roadways, etc.) subject to the review and approval of the Public Works Department per SBMC §22.60.090. Where tree roots are the cause of the damage, the roots shall be pruned under the direction of a qualified arborist.
 2. **Complete Public Improvements.** Public improvements, as shown in the improvement/building plans, including utility service undergrounding and installation of street trees.
 3. **Cross-Connection Inspection.** The Owner shall request a cross connection inspection by the Public Works Water Reclamation/Cross Connection Specialist.
 4. **Fire Hydrant Replacement.** Replace existing nonconforming type fire hydrant(s) with commercial-type hydrant(s) described in Standard Detail 6-003.1 Paragraph 2 of the Public Works Department Standard Details.
 5. **Manholes.** Raise all sewer and water manholes on easement to final finished grade.
 6. **Existing Street Trees.** Submit a letter from a qualified arborist, verifying that the existing street tree(s) have been properly pruned and trimmed.
 7. **Evidence of Private CC&Rs Recordation.** Evidence shall be provided that the private CC&Rs required in Section B have been recorded.
 8. **Story Pole Photographic Record.** The applicant shall submit photographs of the completed building from the same locations as the photographs taken of the story pole installation for recordation purposes.
- I. **Litigation Indemnification Agreement.** In the event the Planning Commission approval of the Project is appealed to the City Council, Applicant/Owner hereby agrees to defend the City, its officers, employees, agents, consultants and independent contractors ("City's Agents") from any third party legal challenge to the City Council's denial of the appeal and approval of the Project, including, but not limited to, challenges filed pursuant to the California Environmental Quality Act (collectively "Claims"). Applicant/Owner further agrees to indemnify and hold harmless the City and the City's Agents from any award of attorney fees or court costs made in connection with any Claim.

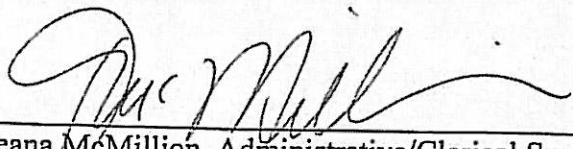
Applicant/Owner shall execute a written agreement, in a form approved by the City Attorney, evidencing the foregoing commitments of defense and indemnification within thirty (30) days of the City Council denial of the appeal and approval of the Project. These commitments of defense and indemnification are material conditions of the approval of the Project. If Applicant/Owner fails to execute the required defense and indemnification agreement within the time allotted, the Project approval shall become null and void absent subsequent acceptance of the agreement by the City, which acceptance shall be within the City's sole and absolute discretion. Nothing contained in this condition shall prevent the City or the City's Agents from independently defending any Claim. If the City or the City's Agents decide to independently defend a Claim, the City and the City's Agents shall bear their own attorney fees, expenses, and costs of that independent defense.

NOTICE OF TENTATIVE SUBDIVISION MAP (INCLUDING NEW CONDOMINIUMS AND CONDOMINIUM CONVERSIONS) TIME LIMITS:

The Staff Hearing Officer's action approving the Tentative Map shall expire three (3) years from the date of approval. The subdivider may request an extension of this time period in accordance with Santa Barbara Municipal Code §27.07.110.

This motion was passed and adopted on the 15th day of July, 2009, by the Staff Hearing Officer of the city of Santa Barbara.

I hereby certify that this Resolution correctly reflects the action taken by the city of Santa Barbara Staff Hearing Officer at its meeting of the above date.


Deana McMillion, Administrative/Clerical Supervisor on behalf of
Gloria Shafer, Staff Hearing Officer Secretary

7-21-09
Date

PLEASE BE ADVISED:

1. This action of the Staff Hearing Officer can be appealed to the Planning Commission or the City Council within ten (10) days after the date the action was taken by the Staff Hearing Officer.
2. If the scope of work exceeds the extent described in the Modification request or that which was represented to the Staff Hearing Officer at the public hearing, it may render the Staff Hearing Officer approval null and void.
3. If you have any existing zoning violations on the property, other than those included in the conditions above, they must be corrected within thirty (30) days of this action.
4. Subsequent to the outcome of any appeal action your next administrative step should be to apply for Architectural Board of Review (ABR) approval and then a building permit.
5. **PLEASE NOTE: A copy of this resolution shall be reproduced on the first sheet of the drawings submitted with the application for a building permit.** The location, size and design of the construction proposed in the application for the building permit shall not deviate from the location, size and design of construction approved in this modification.
6. **NOTICE OF APPROVAL TIME LIMITS:** The Staff Hearing Officer's action approving the Performance Standard Permit or Modifications shall expire two (2) years from the date of the approval, per SBMC §28.87.360, unless:
 - a. A building permit for the construction authorized by the approval is issued within twenty four months of the approval. (An extension may be granted by the Staff Hearing Officer if the construction authorized by the permit is being diligently pursued to completion.) or;
 - b. The approved use has been discontinued, abandoned or unused for a period of six months following the earlier of:
 - i. an Issuance of a Certificate of Occupancy for the use, or;
 - ii. one (1) year from granting the approval.

CORRESPONDENCE RELATED TO
617 BRADBURY AVENUE

RECEIVED

2009 NOV 16 PM 1:06

LARRY J. HANSEN
4626 VIA ORQUIDEA
SANTA BARBARA, CALIFORNIA 93111
Phone (805) 683-7770 Fax (805) 683-7658

November 11, 2009

Santa Barbara City Clerk
735 Anacapa Street
Santa Barbara, CA 93101-2203

Re: 617 Bradbury, Santa Barbara, CA 93101-MST 200-00559 – Appeal to City Council
Appeal Date: 12-8-09

To The Santa Barbara City Council:

Reference is made to the upcoming December 8, 2009 appeal regarding the above referenced mixed-use project.

This project is a modest development on an in-fill parcel in the City of Santa Barbara. It consists of 2 small commercial units (998 SF total) on the first and second floors (19'-0") and two 2 bedroom condominiums on the second and third floors 55'-6" from the front property line at the rear of the building (parapet is 29'-8"). On-grade parking is provided out of sight of the public in addition to more than the required outdoor living space.

It is my understanding that the project conforms to its C-2 zoning and building ordinances, is consistent with the City's General Plan and is supported by staff, ABR and the Staff Hearing Officer.

The benefits to the community include: providing construction jobs, increasing revenue to the City of Santa Barbara, providing a live/work product compatible with the neighborhood, and improving a blighted and transitional neighborhood, while being sensitive to our natural resources by utilizing green roofs and solar energy and reducing impacts on parking stressed streets.

I urge you to support and grant approval to this project as presented.

Sincerely,


Larry J. Hansen

RECEIVED

NOV 18 2009

CITY CLERK'S OFFICE
SANTA BARBARA, CA

November 15th, 2009

Santa Barbara City Clerk
735 Anacapa Street
Santa Barbara, CA 93101-2203

Re: 617 Bradbury, Santa Barbara, CA 93101-MST 200-00559 – Appeal to City Council
Appeal Date: 12-8-09

To The Santa Barbara City Council:

I'm writing in support of the 617 Bradbury project which you will be hearing at the December 8, 2009 appeal.


The applicant, who I have known for years, has worked very closely with the city over the last 2 ½ years on developing a project that will be a benefit to our community. They and the City staff, Architectural Board of Review and Staff Hearing Officer have refined this project into a modest sustainable development with 2 small commercial units and two 2 bedroom condominiums with on-site parking.

There was a lot of misinformation that was presented by the woman and her supporters from Brinkerhoff that appealed the approval of this project to the Planning Commission. Unfortunately, the Planning Commission did not follow staff recommendations, ABR findings or the Staff Hearing Officer's approval of the project and overturned the applicant's approval. You now have an opportunity to right the wrong and approve this project.

Please take into consideration that the project conforms to zoning and building ordinances, is located on a C-2 zoned street, is consistent with Santa Barbara's General Plan, and will greatly improve the neighborhood. It is compatible with the neighbor and it is not Brinkerhoff.

I strongly urge you to grant this project approval as presented.

Sincerely,


Robin McKenzie

November 16th, 2009

Santa Barbara City Clerk
735 Anacapa Street
Santa Barbara, CA 93101-2203

RECEIVED
2009 NOV 18 PM 4:17

CITY OF
SANTA BARBARA

Re: 617 Bradbury, Santa Barbara, CA 93101-MST 200-00559 – Appeal to City Council
Appeal Date: 12-8-09

To The Santa Barbara City Council:

It is my understanding that you will be hearing the appeal of the 617 Bradbury project on December 8, 2009. I would encourage you to approve this project as proposed.

This project has been carefully considered by staff, the ABR and Staff Hearing Officer. On July 15, 2009 SHO approved the project. When a woman from a historical landmarks district, that is not part of Bradbury, appealed the project, the Planning Commission overturned the project's approval.

Please consider the Staff Hearing Officer's recommendations and those of the Senior Planner and the Assistant Planner. Uphold the findings of the ABR as to architectural style, neighborhood compatibility and mass, bulk and scale.

The Staff Hearing Office Report specifically acknowledges that:

- "... mass, bulk and scale has been found appropriate by the ABR."
- "... project complies with all provisions of the City's Condominium Ordinance. . ."
- "...project is found consistent with the policies of the City's General Plan including the Land Use and Housing Elements... [and] will provide residential development that is compatible with the surrounding neighborhood."
- "...[ABR] found the architecture and site design appropriate."

Please be fair to these applicants and approve their project.

Sincerely,


George McKenzie

Glennon D. Mueller
540 Hot Springs Road
Santa Barbara, CA 93108
805.969.1808

RECEIVED
2009 NOV 20 AM 11:10
CITY

November 16, 2009

Santa Barbara City Clerk
735 Anacapa Street
Santa Barbara, CA 93101-2203

Re: 617 Bradbury, Santa Barbara, CA 93101-MST 200-00559 – Appeal to City Council

To The Santa Barbara City Council:

On December 8, 2009 you will be hearing the appeal of the above referenced project.


The Planning Commission's decision to uphold the appeal of the Santa Barbara Bradbury Avenue development project is unfair, and it is an unfavorable reflection on the City of Santa Barbara's permitting process. Commissioner Sheila Lodge's comment makes it very clear that favoritism played a role in the decision and that following the mandated process does not yield a predictable outcome.

The City of Santa Barbara staff, ABR and Staff hearing officer approved the Bradbury Avenue project. It conforms to the C-2 zoning. The project meets or exceeds all the permit requirements, and it is a quality development that the City of Santa Barbara needs.

The model of the appellant misrepresented the facts of the application, and the Planning Commission failed to address the proper issues. The decision in essence says to Santa Barbara real estate developers, "You need to follow the City's guidelines and procedures, but the Planning Commission can do as it wishes."

Please overturn the Planning Commission's decision.

Sincerely,


Glennon D. Mueller

November 18, 2009

Santa Barbara City Clerk
735 Anacapa Street
Santa Barbara, CA 93101-2203

RECEIVED
2009 NOV 19 AM 9:41

CITY CLERK

Re: 617 Bradbury, Santa Barbara, CA 93101-MST 200-00559 – Appeal to City Council

To The Santa Barbara City Council:

I am writing to encourage you to support and approve the innovative mixed used live/work project at 617 Bradbury and overturn the Planning Commission's misguided September 17, 2009 ruling.

The qualified and experienced design team the applicant hired are well versed in creating livable spaces that celebrate sustainable design principles such as water conservation, energy conservation, creation and neighborhood compatibility, especially, suitable for a downtown location such as Bradbury Ave. They and the applicant worked closely with staff and the project received a complete review by DART, ABR and SHO. The applicant acted in good faith and followed the rules of the municipal code, the General Plan and all other City ordinances listening to the direction of staff to develop this modest project.

Even the Staff Hearing Officer Report used the words "appropriate", "complies", "consistent", and "compatible" in its finding.

An individual who is located in the Brinkerhoff Historical Landmark's District appealed the project's approval. 617 Bradbury is not located in Brinkerhoff nor is it located in the El Pueblo Viejo District. It is on a one block long street zoned C-2. The neighborhood is composed of a mix of various architectural styles—contemporary, lapboard sided, ranch, Victorian—and sizes, many of which are larger than the proposed project.

The Planning Commission's actions to overturn the project's approval appear to be a misuse of governmental control and an abuse of public trust.

It is an unjust ruling to the applicant and for the city of Santa Barbara. It is in the public's interest to support the neighborhood revitalization that is proposed.

Our community deserves your yes vote on this project on December 8.

Sincerely,



Jack Diesel
Landscape Architect

November 19, 2009

Santa Barbara City Clerk
735 Anacapa Street
Santa Barbara, CA 93101-2203

RECEIVED
2009 NOV 20 AM 11:10
CITY CLERK

Re: 617 Bradbury, Santa Barbara, CA 93101-MST 200-00559 – Appeal to City Council

To The Santa Barbara City Council:

You will be hearing the appeal by LEED Santa Barbara, LLC/Fae Perry regarding their 617 Bradbury project on December 8, 2009. I am writing in support of this live/work project and would ask that you vote to overturn the Planning Commission's September 17 denial.

This project has gone through DART review, HLC reviewed and approved their Phase I Archaeological Resources Report, and applicants worked closely with City staff, ABR and SHO following their direction to obtain approval.

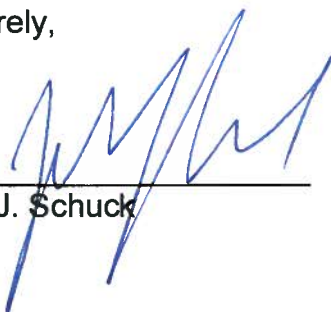
The Planning Commission overturned 2 ½ years of work and resources when a special interest group from Brinkerhoff headed by Mrs. Livernois appealed the project's approval. It seems to be an unjust ruling especially since the applicants have followed all of the rules.

Bradbury is not in the Brinkerhoff Landmark's District. It is a street in dire need of new development and this project is right for the neighborhood. It's a small sustainable mixed-use product. Even the 2030 plan adopted by the city recognizes the importance of projects such as this.

The project has gone through a very thorough scrutiny already and at this late date the Planning Commission's denial seems arbitrary.

I encourage you to approve the project and let the applicants move forward with a well thought out project that will be a benefit to our community.

Sincerely,



John J. Schuck

RECEIVED
21 NOV 30 AM 10:09

November 20, 2009

Santa Barbara City Clerk
735 Anacapa Street
Santa Barbara, CA 93101

RE: 617 Bradbury Avenue, Santa Barbara – CA 93101
MST - 200-00559
Appeal to City Council

TO ALL CITY COUNCIL:

I am writing in support of the above mentioned property that you will be reviewing on December 8, 2009.

As the real estate agent who represented the applicant on the purchase of this property, I have first hand knowledge of what the applicant has gone through over the past 2 ½ years in working with staff, ABR and SHO on this live/work sustainable project.

When the applicant purchased the property, I can tell you the “physical inspection” aspect of the transaction was shocking in the fact that there were several groups of people living in various sections of a small cottage, with attached make shift living quarters, clearly not permitted and as I recall there were various zoning violations. This applicant has chosen to turn this property around and up the bar of excellence as other owners have been allowed, in the surrounding area.

I understand the Planning Commission pointed out something important with regard to this approval process, in that the applicant had followed all of the rules, however a commissioner was quoted as saying “but that doesn’t mean we have to approve it”. Does this mean that if we don’t follow the rules, the project will be approved?

I am asking you to consider the following regarding this project:

- *Property is not located on Brinkerhoff
- *Project is below the 60’ height limit
- *Surrounded by commercial uses
- *Meets the directives of the General Plan
- *Located on a C-2 zoned street
- *ABR supported size, bulk and scale
- *Proposed LEED project
- *Complies with the Condominium Ordinance and Land Use and Housing Elements

Please vote to overturn the Planning Commission's denial of this project. The project will be a refreshing move in the right direction from what I remember at the initial "physical inspection".

Sincerely,

A handwritten signature in cursive script that reads "Christi Vior". The signature is written in dark ink and is positioned below the word "Sincerely,".

Christi Vior
Prudential California Realty
Commercial Division



McCormack Properties Development Company

420 E. Carrillo Street, Santa Barbara, CA 93101

Santa Barbara City Clerk
735 Anacapa St.
Santa Barbara, Ca 93101 2203

November 30, 2009

Re: 670 Bradbury, Santa Barbara, Ca 93101-MST 200-00559 appeal to the City Council

Gentlemen:

I have followed with dismay the progress of this applicants experience in the processing and review steps since making their initial application starting in 2007.

While it might not seem important to the staff, the planning commissioners and some review boards who reviewed this matter before you, it is a travesty that this application has taken so long to process and is now even come down to the city council for review and decision.

If only the appointed boards and commissioners followed and upheld the rules, regulations, and policies of the City as delineated in numerous documents that specifically describe the uses permitted under the general plan, the zoning ordinances that apply to this property and the policies the city has established over the past several years, this matter would have been approved and permits issued a long time ago. It seems to me that the rights of private property owners are being ignored because in the face of the merest opposition these commissioners refuse to be diligent and just all cave in.

This property conforms to all the rules and regulations period. It is an application in as stated a "neighborhood in transition" and directly faces an intense commercial enterprise not 50 ft. from its front curb. It follows one of three architectural vocabularies suggested for this location and yet time and time again previous commissioners didn't have the will or the fortitude to acknowledge it conformed and therefore be approved.

I think it is unethical for boards and commissioners to tread on private property rights in the name of their personal preferences when the applicant in good faith honestly applies for a building permit and meets all the rules, regulations and tenants of law that have been promulgated for the general public.

Please don't trespass on the ethics of honest decision making when the applicant has literally conformed to the same laws you agreed to uphold when you took your own oath of office.

Sincerely,


Mike McCormack



CITY OF SANTA BARBARA

COUNCIL AGENDA REPORT

AGENDA DATE: December 8, 2009

TO: Mayor and Councilmembers

FROM: Planning Division, Community Development Department
Administration Division, Parks and Recreation Department

SUBJECT: Tree Preservation And Landscape Plan Policy Recommendations

RECOMMENDATION: That Council:

- A. Introduce and subsequently adopt, by reading of title only, An Ordinance of the Council of the City of Santa Barbara Amending Chapters 15.20 and 15.24 and Title 22 of the Santa Barbara Municipal Code Relating to the Preservation of Trees and the Maintenance of Approved Landscape Plans; and
- B. Adopt, by reading of title only, A Resolution of the Council of the City of Santa Barbara Establishing Administrative Penalties for Tree Removal, Excessive Pruning and Landscape Plan Maintenance Violations of Chapters 15.20, 15.24, and 22.11 of the Santa Barbara Municipal Code.

EXECUTIVE SUMMARY:

In late January 2008 the City Council directed staff to conduct an in-depth review of City policies and enforcement procedures related to tree removals, excessive pruning of trees, and failure to maintain approved landscape plans. On December 9, 2008 staff presented its recommendations to Council who forwarded the proposed tree preservation guidelines, new fine schedule and landscape maintenance guidelines to the Ordinance Committee for review and refinement.

The Ordinance Committee reviewed, refined and approved the draft tree preservation regulations on April 21, 2009 and July 28, 2009 and staff is now forwarding the proposed code amendments and resolution to Council for introduction and adoption.

The Municipal Code changes and resolution are consistent with staff's recommendations to City Council on December 9, 2008 and incorporate direction from the Street Tree Advisory Committee (STAC), Park and Recreation Commission, Single Family Design Review Board, Architectural Board of Review, and Historic Landmarks Commission. Two public workshops were also held and provided input from the public on tree removals, excessive tree pruning, and failure to maintain approved landscape plans.

Based on public outreach and guidance from the Ordinance Committee and various boards and commissions, staff is recommending amendments to the Municipal Code, a resolution and changes to practices to accomplish the following goals:

- Establish a new fine schedule with higher maximum penalties for tree violations
- Clarify and establish regulations related to tree size, location, and maintenance
- Apply the ANSI A-300 Standards and Best Management Practices to city-owned trees and to record in the city data base when City owned trees are pruned by more than one quarter.
- Define and update the roles and responsibilities of various boards and commissions in the regulation of public and private trees
- Establish explicit protections for trees on commercial and multiple-family properties with approved plans
- Clarify enforcement mechanisms for the maintenance of approved landscape plans

DISCUSSION:

The proposed ordinance amendments establish the City's policies and enforcement procedures in the following areas: 1) penalties for tree violations, 2) maintenance of approved landscape plans, 3) planting and maintenance of City trees, and 4) roles of Boards and Commissions.

New Maximum Fines for Tree Violations

Under the City's Administrative Citation Ordinance, the current administrative fines for removal of trees or excessive tree pruning begin with a \$100 fine for each initial violation with an additional fine of \$100 per day if a violation is not corrected by the deadline. A \$200 fine is given for a second violation of the same or similar offense within a 12 month period. A \$250 fine is given for a third similar violation within the same 12 month period.

Staff determined through public workshops that the current administrative fine of \$100 per violation is not an adequate deterrent for tree-related violations. The proposed fine schedule is based on the type of violation and size or significance of the tree involved.

Action without, or in violation of, a permit	Trunk diameter from 4" up to 12"	Trunk diameter over 12" and up to 24"	Trunk diameter over 24"
Pruning Offense	Up to \$500	Up to \$1,000	Up to \$1,000
Tree Removal	Up to \$1,000	Up to \$3,000	Up to \$5,000

The proposed schedule details the maximum fine for each offense and allows flexibility to differentiate between minor violations and more significant or repeated violations. The proposed schedule is outlined in a resolution establishing administrative penalties for violations of Chapters 15.20 and 15.24. In addition to requiring corrective action to rehabilitate or replace trees, it is anticipated that higher fines will also serve as an effective deterrent to illegal tree removals and excessive pruning.

Clarification of Tree Regulations and Application of ANSI Pruning Standards

The proposed changes aim to clarify existing regulations and practices regarding the preservation and maintenance of City-owned trees, private trees in front setbacks and parking lots, and Historic or Specimen Trees. The proposed changes include the following:

1. Clarify which trees will be considered setback trees when only a portion of the trunk lies in the front setback.
2. Set the height where the trunk width is measured in a manner consistent with industry practice.
3. Define the significant alteration of a tree as the reduction of the height and/or spread of the tree crown by more than one-fourth (1/4) within one year, rather than removal of one-third (1/3) of its overall size.
4. Require compliance with the American National Standards Institute (ANSI) A300 Pruning Standards and Best Management Practices (BMPs) for permitted work on City trees by private individuals or companies.
5. Establish the City's compliance with ANSI A300 Pruning Standards and BMPs in the pruning of City-owned trees. Staff will record in the city data base when City owned trees require pruning by more than one-fourth.
6. Recommend that residents comply with ANSI A300 Pruning Standards and BMPs in the pruning of privately-owned setback trees.

Role of Boards and Commissions

The proposed amendments to the Municipal Code better define the roles and responsibilities of the Street Tree Advisory Committee, Parks and Recreation Commission, Historic Landmarks Commission, and Architectural Board of Review in the regulation of public and private trees. The ordinance amendments clarify the current overlapping jurisdiction that results when public or private trees are proposed for removal. For example, under current regulations, conflicts on jurisdictional authority arise when a public tree is approved for removal by the Parks and Recreation

Commission but the removal is also considered an exterior alteration subject to review by the Historic Landmarks Commission (HLC) if the tree is located within El Pueblo Viejo (EPV) District. The proposed Ordinance amendments define a clear review process where the Parks and Recreation Commission is in the lead on decisions involving public trees or unsafe trees that require removal in El Pueblo Viejo (EPV) District.

The proposed amendments formalize the role of the Street Tree Advisory Committee in permitting procedures. The Street Tree Advisory Committee is a long established subcommittee that currently provides recommendations to the Parks and Recreation Commission on certain proposed tree removal applications. Ordinance amendments spell out the current review process and steps.

Additionally the proposed amendments clarify which City boards or commissions review applications to remove trees. Clarification is being made regarding certain proposed tree removals on private property. The Community Development Department assumes primary enforcement responsibility for removal of parking lot trees or trees shown on approved landscape plans.

The Parks and Recreation Commission would continue to be the decision maker for applications regarding front setback trees, except in EPV District, where the HLC would retain primary review and approval authority. Similarly, the ABR will review applications for the removal of parking lot trees and trees on approved landscape plans for parcels developed with multi-family residential and commercial uses, except in EPV where the HLC will retain review and approval authority.

Landscape Plan Maintenance

Presently, the Municipal Code does not explicitly provide an enforcement tool when a property owner fails to maintain an approved landscape plan. As a result, enforcement of tree removals or significant landscaping changes is difficult. When a property owner fails to maintain landscaping in accordance with an approved landscape plan, the enforcement case is processed as a violation of the project's conditions of approval. This enforcement procedure is not very flexible (in terms of scaling the response to the scope of the violation) and requires significant staff time to resolve each violation.

To streamline the City's enforcement efforts, staff proposes ordinance amendments to explicitly require the maintenance of approved landscape plans as follows:

1. Require maintenance of approved landscape plans on all lots developed with multiple-family residential, commercial, or industrial uses. Single-family residences or duplex units are covered where the conditions of approval for the development expressly require the maintenance of specific landscape elements.

2. Establish a standard for the maintenance of landscape improvements.
3. Require that major alterations to approved plans be reviewed and approved by the review body that approved the landscape plan with minor alterations approved administratively or found to be exempt from this requirement.

Next Steps

Public Outreach and Education

With Council adoption of the Municipal Code amendments and the tree violation fine schedule, Staff will take a number of steps to inform the public, including:

- Web page updates
- Inside Santa Barbara feature on City TV Channel 18
- Handouts for public counters, building permits, and tree pruning permits
- Presentations to landscape professionals, tree care professionals, neighborhood groups, and community groups.

In addition, the Parks and Recreation Department will develop and implement a voluntary education program targeted to landscape and tree care professionals and property management companies. Offered on an annual basis, the program will address the City's tree preservation policies and enforcement procedures, including the application of the ANSI A300 Pruning Standards and Best Management Practices.

BUDGET/FINANCIAL INFORMATION:

Staff anticipates an increase in the number of enforcement cases and appeals of Administrative Citations, for both tree violations and unpermitted changes to approved landscape plans. These additional cases will be managed by existing Planning Division and Parks and Recreation Department staff, and will be placed on a priority list with all other pending enforcement cases awaiting assignment.

Development and implementation of the Public Outreach and Education Program will require an estimated 200 to 250 hours in the first year. Once informational materials are developed, the volunteer education program and ongoing community outreach will require an estimated 80 to 100 hours per year. There will be additional costs for materials duplication and postage; however, an emphasis will be placed on the use of the City's web site as an informational resource.

For the Parks and Recreation Department, an increase in the enforcement workload and implementation of the public outreach program may result in delays for tree service inspections, and increase the length of time required to investigate and resolve tree violations. For the Planning Division, the proposed ordinance amendments will likely result in a minor increase in design review applications for tree and landscape plan alterations subject to review by the ABR, HLC, and SFDB. The additional application review and related enforcement activity will be accommodated with existing staff; however, there may be a delay in initiating enforcement and/or scheduling design review meetings depending on the level of workload and staffing levels within the Planning Division and Parks and Recreation Department.

SUSTAINABILITY IMPACT:

Tree preservation and landscape plan maintenance policies are essential tools for the maintenance of a healthy urban forest and provide community aesthetic benefits. Updated policies will provide long-term protection for the City's urban forest which provides community energy conservation, water quality, air quality, and wildlife habitat benefits.

PREPARED BY: Renee Brooke, AICP, Senior Planner
Jill E. Zachary, Assistant Parks and Recreation Director

SUBMITTED BY: Paul Casey, Community Development Director
Nancy L. Rapp, Parks and Recreation Director

APPROVED BY: City Administrator's Office

COUNCIL INTRODUCTION DRAFT 12/8/09
SHOWING CHANGES FROM EXISTING CODE

AN ORDINANCE OF THE COUNCIL OF THE
CITY OF SANTA BARBARA AMENDING
CHAPTERS 15.20 AND 15.24 AND TITLE 22 OF
THE SANTA BARBARA MUNICIPAL CODE
RELATING TO THE PRESERVATION OF
TREES AND THE MAINTENANCE OF
APPROVED LANDSCAPE PLANS.

THE COUNCIL OF THE CITY OF SANTA BARBARA DOES ORDAIN AS
FOLLOWS:

SECTION ONE. Chapter 15.20 of Title 15 of the Santa Barbara Municipal Code
is amended to read as follows:

15.20.010 Title.

Recognizing that the urban forest is a valuable asset to the City of Santa Barbara, this
chapter shall be known as and may be cited and referred to as the "Street Tree Ordinance
of the City of Santa Barbara."

15.20.020 Definitions.

For the purpose of this chapter, certain terms and words are hereby defined as follows:

- A. DIRECTOR. The person having control and management of the Parks and
Recreation Department of the City or the Director's designated representative.
- B. GROUND COVER. Includes grass, turf or perennial plants that normally grow in
a prostrate manner so as to conceal, or with the purpose of concealing, the ground
surface, and that do not exceed eight inches in height, and that will tolerate light
pedestrian traffic.

- C. HISTORIC TREE. A tree which has been found by the ~~Board of Park~~
~~Commissioners~~Parks and Recreation Commission, the Historic Landmarks Commission,
or the City Council to be a tree of notable historic interest and has been designated by
resolution of the City Council as an "historic tree". For purposes of this definition, trees
designated by the City Council as an "historic tree" or an "historic landmark tree" shall

be treated as ‘historic trees’.

D. MAINTENANCE or MAINTAIN. For purposes of this Chapter 15.20, maintenance or maintain shall mean the following: ~~P~~pruning, spraying, bracing, root pruning, staking, fertilizing, watering, treating for disease or injury, and other work performed to promote the health, beauty, or adaptability of trees and shrubs, but shall not include the watering of such trees in residential zones.

E. OFFICIAL TREE. A tree so designated by the Director because of its desirable characteristics of growth and beauty with reference to its crown, root structure, and adaptability to local climatic, soil and street conditions. The Director shall keep a list of official trees.

F. PARKWAY STRIP. Either (i) the area between the curb and sidewalk within a fully improved street right-of-way, or (ii) that area extending six feet from the curb towards the nearest right-of-way line in an area with no sidewalk, or (iii) any area within a street right-of-way in which an official or parkway tree is located.

G. PARKWAY TREE. A tree planted or caused to be planted by the City within a street right-of-way.

H. PUBLIC AREA. Parks, playgrounds, areas around public buildings and all other areas under the supervision and maintenance of the City not including any street right-of-way.

I. SHRUB. Woody vegetation or a woody plant having multiple stems and bearing foliage from the ground level up.

J. SPECIMEN TREE. A tree which has been found by the ~~Board of Park Commissioners~~Parks and Recreation Commission to be of high value because of its type and/or age and which has been ~~so~~ designated by resolution of the City Council as a “specimen tree”.

K. STREET. Shall have the meaning set forth in section 28.04.665 of this Code.

L. TREE. A usually tall, woody plant, distinguished from a shrub by having comparatively greater height and, characteristically, a single trunk rather than several stems.

M. TREE WELL. A planting area found in an otherwise paved street right-of-way.

15.20.030 Master Street Tree Plan.

All trees within a parkway strip shall be planted and maintained according to the Master Street Tree Plan adopted by the City Council. The Director shall administer the Master Street Tree Plan and, with the approval of the ~~Board of Park Commissioners~~Parks and Recreation Commission, shall have the authority to amend or add to the Master Street Tree Plan at any time that circumstances make such amendment or addition advisable.

15.20.040 Other Plantings or Improvements in Parkway Strips.

It is unlawful to install or plant in a Parkway Strip any of the following without a written permit from the Director: (i) any tree not designated an official tree in the Master Street Tree Plan; (ii) any other plant whose ultimate growing height is over eight inches; or (iii) any other non-living ground cover, ~~without a written permit from the Director.~~

The Parks and Recreation Department shall maintain a list of plant materials which comply with the height requirements of this Title.

15.20.050 Director Authority and Responsibility.

The Director is hereby made responsible for inspection, maintenance, removal and replacement of all trees planted in public areas, parkway strips, and tree wells.

The Director shall have authority to remove or replace any tree or other planted improvements within a parkway strip which does not conform to the "Master Street Tree Plan" or this Title.

The Director shall comply with the pruning standards published by the American National Standards Institute [ANSI A300] and the companion best management practices published by the International Society of Arboriculture in the inspection, maintenance, removal, and replacement of all trees planted in public areas, parkway strips, and tree wells with the following exceptions: (1) the Director has the discretion to determine whether or not to prepare written objectives or specifications for pruning activities; and

(2) the Director has the discretion to determine the appropriate amount of pruning based on a tree's species, age, health, site, or other factors.

15.20.060 Development Activity - Tree Plans.

The applicant for any activity for which approval by the Architectural Board of Review, the Historic Landmarks Commission, the Single Family Design Board, or the Planning Commission is required by City law shall, concurrently with processing of such application, submit to the Director and the appropriate review body plans for the planting of official trees within any parkway strip on or adjacent to the lot, parcel or building site. The Director may designate the species, kind, number, spacing, and method of planting of such trees and may require the inclusion of root inhibiting ~~planters~~barriers.

15.20.070 New Subdivisions - Conformity with Master Street Tree Plan.

No subdivision shall be approved unless it is found to include planting of official trees within the parkway strips in conformity with the "Master Street Tree Plan" and under the Director's supervision. Any such approval shall assure that the costs of planting and first two years maintenance, including irrigation, for all official trees are borne by the subdivider. ~~Posting of a faithful performance bond may be accepted by the Director as a means of complying with this requirement.~~ The Director may require the posting of a performance bond to secure faithful performance of the planting, maintenance, and irrigation obligations in a manner consistent with the security provisions of the Subdivision Map Act (Government Code section 66499 et seq.).

15.20.080 Street Improvements - Integration of Plans.

Any proposed change in the direction or width of a public street right-of-way or any proposed street improvement shall, where feasible, incorporate plans for installation of parkway strips. Plans and specifications for planting such areas shall be integrated into

the general plan of improvements and it shall be the duty of the City Engineer to coordinate the design of such improvements with the Parks and Recreation Department prior to completion of final overall plans.

In order to provide for coordinating the multiple use of all street improvements, plans and specifications for street planting proposed by the Parks and Recreation Department shall be submitted to the City Engineer, Traffic Engineer and City Planner for their recommendations.

15.20.090 Maintenance Responsibility of Property Owner.

An owner of property adjoining a street right-of-way is responsible for maintaining all trees and other vegetation planted between the edge of the pavement nearest said property and the right of way line separating the property from the street, except those trees to be maintained by the Director pursuant to section 15.20.050. This maintenance obligation shall include keeping such area free from weeds or any obstructions inimical to public safety and or contrary to the Master Street Tree Plan. The placing of tar paper, plastic or other material over the ground, or the use of materials or chemicals intended to permanently sterilize the soil in these areas, is prohibited.

Nothing in this chapter shall be deemed to relieve the owner of any property from the duty to keep the property, including any adjacent sidewalks and parkway strip in front thereof, in a safe condition and so as not to be hazardous to public travel. For purposes hereof, "owner" shall include any occupant of property.

15.20.100 Abatement of Dangerous Conditions - Authority of Director.

The Director may remove a limb from any tree, regardless of the location of such tree, if in the Director's opinion such removal is necessary to maintain the safety of the public right of way. In the event such tree is on private property, the Director shall notify the property owner of the intent to remove a limb by written notice at least ten (10) days prior to such removal and, where possible, obtain the owner's consent for entry upon the property, except in the case of manifest public danger and immediate necessity.

15.20.110 Permit Required for Planting, Maintaining, or Removing any Tree Growing Within a Street Right-of-Way or Public Area.

A. PERMIT REQUIRED. Except for persons acting at the direction of the Director, a written permit shall be required for any person to plant, prune, trim, perform maintenance on, or remove any tree planted in a parkway strip, tree well, public area or street right of way.

B. APPLICATION. Whenever a ~~property owner or occupant person~~ desires to plant, prune, trim, perform maintenance on, or remove any tree planted in a parkway strip, tree well, public area or street right of way, an application shall be filed with the Parks and Recreation Department ~~for a permit for such actions on forms provided for such purpose.~~ The application shall show clearly, by diagram or plot plan and photograph(s), the location and identity of the tree or trees sought to be planted, maintained or removed; the name and address of the applicant; and such other information as indicated on the form provided.

C. PLANTING. When an application proposes the planting of a tree in a parkway strip, tree well, public area or street right of way, the Director shall consider whether the proposed planting conforms to the Master Street Tree Plan. The Director may designate the species, kind, number, spacing, and method of planting of such trees and may require the inclusion of root inhibiting barriers as necessary to conform to the Master Street Tree Plan. The Director may approve, conditionally approve, or deny the application. If the application does not conform to the Master Street Tree Plan or the applicant does not agree to the Director's conditions of approval, the Director shall deny the application.

D. MAINTENANCE. When an application is submitted for maintenance of a tree planted in a parkway strip, tree well, public area or street right of way, the Director shall consider whether the proposed maintenance will benefit the state of the urban forest and may approve, conditionally approve, or deny the application on the basis of that consideration in the sole discretion of the Director. The Director may require written specifications for the work proposed as part of the permit application.

E. REMOVAL. When an application is submitted for the removal of a tree planted

in a parkway strip, tree well, public area or street right of way, the application shall be processed in accordance with the following procedures:

1. Notice. Any tree for which a removal permit has been requested must be posted with notice of the permit request by the Parks and Recreation Department for at least ten (10) days prior to issuing a permit for removal.

2. Administrative Review. The application shall first be reviewed by the Director to consider whether the removal would benefit the state of the urban forest considering the factors specified in paragraphs 3 and 4 below. If the Director finds that the removal is either: (i) beneficial to the state of the urban forest, or (ii) necessary for public safety, the Director may issue the permit. If the Director finds that the removal will not benefit the state of the urban forest and is not necessary for safety, the Director may deny the application. The Director may also refer the application to the Street Tree Advisory Committee for further review consistent with this Section. Except in cases where the Director finds removal is necessary for public safety, the applicant or any interested person may request review of the application by the Street Tree Advisory Committee and the Parks and Recreation Commission as provided in this Section.

3. Street Tree Advisory Committee. If the application is referred to the Street Tree Advisory Committee by the Director or at the request of the applicant or any interested person, the application shall be presented to the Street Tree Advisory Committee at the next available meeting of the Committee. The Street Tree Advisory Committee shall consider the application and make a recommendation to the Parks and Recreation Commission to approve, conditionally approve, or deny the application.

When making its recommendation, the Street Tree Advisory Committee shall consider the following factors:

- a. Whether such tree is designated as an historic or specimen tree;
- b. Whether the tree species and placement conforms to the “Master Street Tree Plan;”
- c. The condition and structure of the tree and the potential for proper tree growth and development of the tree canopy;
- d. The number and location of adjacent trees on City property and the possibility of maintaining desirable tree density in the area through additional planting on City property; and
- e. Any beneficial effects upon adjacent trees to be expected from the proposed removal.

4. Parks and Recreation Commission. Once the Street Tree Advisory Committee has made its recommendation, the application and the Street Tree Advisory Committee’s recommendation shall be presented to the Parks and Recreation Commission at the next available meeting of the Commission. After receiving the recommendation of the Street Tree Advisory Committee and a recommendation from the Director, the Parks and Recreation Commission shall approve, conditionally approve, or deny the application. When making its decision, the Parks and Recreation Commission shall consider the following factors:

- a. Whether such tree is designated as an historic or specimen tree;
- b. Whether the tree species and placement conforms to the “Master Street Tree Plan;”

c. The condition and structure of the tree and the potential for proper tree growth and development of the tree canopy;

d. The number and location of adjacent trees on City property and the possibility of maintaining desirable tree density in the area through additional planting on City property; and

e. Any beneficial effects upon adjacent trees to be expected from the proposed removal.

~~If the Director finds that such maintenance is to the advantage of the tree, or that removal is imperative due to safety considerations, then a permit may be issued. The Director may waive the permit requirement for minor pruning activities such as the removal of palm fronds.~~

~~—B.—All costs incurred in maintaining or removing a tree as permitted by the Director shall be borne by the permittee. Where a tree is removed under permit, the Director may require a replacement tree to be planted, and all costs related to the replacement tree shall be borne by the permittee.~~

15.20.115 Work Without a Permit - Unlawful Acts.

It is unlawful for any person, except a person acting at the direction of the Director, to plant, prune, trim, perform maintenance on, or remove any tree planted in a parkway strip, tree well, public area or street right of way without the permit required pursuant to Section 15.20.110 of this Code.

15.20.120 Permit for Maintenance or Removal - Time Limit.

~~Any tree for which a removal permit has been requested must be posted with notice of the permit request by the Parks and Recreation Department for at least ten (10) days prior to issuing a permit for removal. Any work authorized by a permit shall be done within sixty (60) days of issuance thereof, under the general supervision of the Director, and in accordance with rules established by the Director. A permit shall be void after the expiration of the sixty day period. Any work authorized by a permit shall be done under the general supervision of the Director and in accordance with rules established by the Director. All costs incurred in maintaining or removing a tree as permitted pursuant to this Chapter 15.20 shall be borne by the permittee. When a tree is removed under permit, the Director or Parks and Recreation Commission may require a replacement tree to be planted, and all costs related to the replacement tree shall be borne by the permittee.~~

15.20.130 ~~Liability Insurance Required for Tree Removal Businesses~~Conditions of Approval for Maintenance or Removal.

Any person, ~~firm~~business, or corporation ~~engaged in the business of pruning or removing trees and which engages in such activity as to~~who receives a permit to maintain or remove an official or parkway trees shall comply with all of the following conditions:

A. ~~e~~Carry public liability and property damage insurance in an amount to be determined by the City Council and maintain a current certificate of such insurance ~~shall be~~ on file with the City Clerk.

B. Conduct all maintenance activities in compliance with the current pruning standards published by the American National Standards Institute [ANSI A300] and the companion best management practices published by the International Society of Arboriculture. The Director or the Parks and Recreation Commission may require written specifications for the work proposed as a condition of the permit.

C. ~~The Director may require the posting of~~Post a performance bond in the amount equal to the cost of a proposed job, if required by the Director.

15.20.140 Interference with Work Prohibited.

No person shall interfere, or cause any person to interfere with, any work being done under provisions of this chapter by any employee of the City or any person or firm doing work for the City on bid, hire or assignment.

15.20.150 Injuring Trees - Unlawful Acts.

It is unlawful for any person to injure or destroy any tree growing within a City street right-of-way or in public areas by any means, including, but not limited to the following:

- A. Constructing a concrete, asphalt, brick or gravel sidewalk or otherwise filling up the ground area around any tree so as to substantially shut off air, light or water from its roots;
- B. Piling building equipment, material or any other substance around any tree so as to cause injury;
- C. Pouring any deleterious matter on or around any tree or on the surrounding ground, lawn or sidewalk;
- D. Posting any sign, poster, notice or otherwise on any tree, tree stake or guard, or fastening any guy wire, cable, rope, nails, screws or other device to any tree, tree stake or guard without having first obtained a permit from the Director;
- E. Causing any wire charged with electricity to come in contact with any tree without having first obtained a permit from the Director;
- F. Causing any fire or burning near or around any tree.

15.20.160 Appeals to Parks and Recreation Commission.

Any ~~resident of the City~~applicant or interested person may appeal a decision of the Director regarding a permit required for ~~the planting, or~~ maintaining ~~or removal of~~ a tree in a street right-of-way or public area by filing a written notice thereof with the Parks and Recreation Department within ten days after such decision is made. Implementation of the decision shall be stayed during the pendency of the appeal. The notice shall clearly specify the reasons for the appeal. The appeal shall be placed on the agenda of the ~~Board of Park Commissioners~~Parks and Recreation Commission at its next ~~regularly scheduled~~available meeting. The ~~Board of Park Commissioners~~Parks and Recreation Commission shall make a ruling based on the evidence presented, and may sustain, modify or reverse the decision of the Director.

15.20.170 Appeals to City Council.

~~—An appeal to the City Council from any ruling of the Board of Park Commissioners may be made pursuant to the provisions of Section 1.30.050 of this Code. Any action of the Parks and Recreation Commission made pursuant to this Chapter 15.20 may be appealed to the City Council pursuant to the provisions of Section 1.30.050 of this Code.~~

15.20.180 Designation of "Specimen" and "Historic" Trees.

Any recommendation by the ~~Board of Park Commissioners~~Parks and Recreation Commission or the Historic Landmarks Commission to City Council for the designation of a "Specimen" or "Historic" tree shall be preceded by two public hearings, which shall be at least 30 days apart.

SECTION TWO. Chapter 15.24 of Title 15 of the Santa Barbara Municipal Code is amended to read as follows:

15.24.001 Title.

Recognizing that trees on private property can make valuable contributions to the urban forest of the City of Santa Barbara, this chapter shall be known as and may be cited and referred to as the "Tree Preservation Ordinance of the City of Santa Barbara."

15.24.002 Use of American National Standards Institute Pruning Standards.

The City follows the pruning standards published by the American National Standards Institute [ANSI A300] and the companion best management practices published by the International Society of Arboriculture in the care and maintenance of City trees. The City encourages residents to utilize and follow the current standards and best management practices in the care and maintenance of their trees.

15.24.010 Definitions.

For the purpose of this Chapter, certain terms and words are hereby defined as follows:

A. TREE. A usually tall, woody plant, distinguished from a shrub by having comparatively greater height and, characteristically, a single trunk rather than several

stems;

B. PALM TREE. Any tree from the Palmae plant family;

C. SPECIMEN TREE. Any tree which has been found by the ~~Board of Park Commissioners~~Parks and Recreation Commission to be of high value because of its type and/or age and which has been designated by resolution of the City Council as a "specimen tree";

D. HISTORIC TREE. A tree which has been found by the ~~Board of Park Commissioners~~Parks and Recreation Commission, the Historic Landmarks Commission or the City Council to be a tree of notable historic interest and has been designated by resolution of the City Council as an "historic tree". For purposes of this definition, trees designated by the City Council as an "historic tree" or an "historic landmark tree" shall be treated as "historic trees";

~~E. CUT DOWN OR OTHERWISE DESTROY. To cut a tree down or to prune a tree in such a way that its natural character is significantly altered or its overall size is reduced by more than one third.~~

~~E. DIRECTOR. The Director of the City's Parks and Recreation Department or the Director's designated representative.~~

~~F. REMOVE A TREE. To cut a tree down or to otherwise remove a tree from its location by any means.~~

~~G. SETBACK TREE. A tree located in the front setback of any lot as the term front setback is defined and specified in Title 28 of this Code, the Zoning Ordinance. A tree is a setback tree if more than 50% of the tree trunk, measured at the highest natural grade adjacent to the trunk, is within the front setback.~~

H. PARKING LOT TREE. A tree situated in a planter required pursuant to Section 28.90.050 of this Code.

I. SIGNIFICANTLY ALTER A TREE. To prune a tree in such a way that either (i) its natural character is significantly altered, or (ii) the height and/or spread of the tree crown is reduced by more than one-quarter within any twelve month period.

J. TREE CROWN. The leaves and branches of a tree measured from the lowest branch on the trunk to the top of the tree.

K. TREE ON AN APPROVED PLAN. A tree shown on an approved plan on record with the City for a lot developed with a commercial, multiple-family residential, or industrial use.

15.24.020 Prohibition.

~~It is unlawful to cut down or otherwise destroy or to authorize or allow the destruction or cutting down of any tree:~~

~~—A. Situated in the front setback of any lot or situated in the area of any lot required to be landscaped pursuant to Section 28.90.050 of this Code, except as provided in Sections 15.24.030 and 15.24.035 of this chapter, without the express permission of the Board of Park Commissioners, or City Council, on appeal;~~

~~—B. That has been designated as an historic or specimen tree by the City Council as defined herein, anywhere it may occur on a lot, parcel or building site.~~

Except as provided in Sections 15.24.030 and 15.24.035, it is unlawful for any person to remove or significantly alter or to authorize or allow the removal or significant

alteration of any of the following trees without a permit:

- A. A setback tree,
- B. A parking lot tree,
- C. A tree on an approved plan, or
- D. A tree designated as an historic or specimen tree by the City Council.

15.24.030 Lawful Removal of Trees Without a PermitApplication.

~~Trees coming within the following exceptions may be removed lawfully without application to or permission from the Board of Park Commissioners or City Council~~

Notwithstanding the prohibition specified in Section 15.24.020, a tree that is subject to the prohibition specified in Section 15.24.020 may be lawfully removed without a permit if the tree satisfies any one of the following definitions:

A. ~~Trees whose main trunk is less than four inches (4") in diameter at a point twelve inches (12") above the ground or palm trees with a trunk less than three feet (3') in height~~The main trunk of the tree is less than four inches (4") in diameter at a point four feet six inches (4'6") above the highest natural grade adjacent to the trunk;

B. ~~Diseased trees whose~~The tree is diseased and the tree's condition is a source of present danger to healthy trees in the immediate vicinity; provided~~ed, in~~ing a certificate attesting such condition has been filed with the Parks and Recreation Director by a member of the American Society of Consulting Arborists, an arborist certified by the International Society of Arboriculture, or by an authorized employee of the City Parks and Recreation Department at least forty-eight (48) hours prior to the removal of the tree;

C. ~~Trees~~The tree is so weakened by age, disease, storm, fire, or any injury so as to cause imminent danger to persons or property;~~;~~ provided~~ed,ing~~ prior written notice of such condition has been given to the Parks and Recreation Director at least forty-eight (48) hours prior to the removal of the tree or shorter period if approved by the Parks and Recreation Director;

D. ~~Dead trees~~The tree is dead, provided prior written notice of such condition has been given to the Parks and Recreation Director at least forty-eight (48) hours prior to the removal of the tree or shorter period if approved by the Parks and Recreation Director;or

E. The Fire Department has ordered the tree removed in order to maintain required defensible space on the lot or to comply with the City's Wildland Fire Plan.

If the tree to be removed pursuant to this Section is located on a lot within El Pueblo Viejo Landmark District or the Brinkerhoff Avenue Landmark District and the removal of a tree will significantly affect the exterior visual qualities of the lot, the Park and Recreation Director or the Community Development Director may require the replacement of the tree with a tree approved by the Historic Landmarks Commission.

**15.24.035 Lawful ~~Reduction~~Significant Alteration of Trees Without a
ApplicationPermit.**

~~Any tree posing a potential danger to persons or property due to age, disease, storm, fire, or other injury may be lawfully pruned in such a way that the natural character of the tree is significantly altered or the overall size of the tree is reduced by more than one-third without application to or permission from the Board of Park Commissioners or City~~

~~Council if:~~

Notwithstanding the prohibition specified in Section 15.24.020, a tree that is subject to the prohibition specified in Section 15.24.020 may be significantly altered without a permit if the tree satisfies either of the following definitions:

A. The tree poses a potential danger to persons or property due to age, disease, storm, fire, or other injury; provided:

~~A1.~~ A written report prepared by a member of the American Society of Consulting Arborists or an arborist certified by the International Society of Arboriculture specifying the reason(s) for the reduction and the extent of the proposed work is filed with the Parks and Recreation Director; and

~~2.B.~~ An authorized employee of the City Parks and Recreation Department assesses the condition of the tree and approves the proposed work as comporting with sound arboricultural practices as specified in the American National Standards Institute tree pruning standards [ANSI A300].

B. The City Fire Department has ordered the pruning of the tree in order to maintain required defensible space or to comply with the City's Wildland Fire Plan; provided, the scope of the pruning allowed pursuant to this section is limited to extent of the pruning specified in the Fire Department order that is filed with the Parks and Recreation Director.

15.24.040 Application to Remove a Setback Tree.

~~An application for authority to remove a tree when permission is required shall be~~
When a permit is required for the removal of a setback tree pursuant to this Chapter 15.24, the application for such permit shall be processed as follows (excluding trees on lots within El Pueblo Viejo Landmark District or the Brinkerhoff Avenue Landmark District, which are processed pursuant to Section 15.24.055):

A. APPLICATION. An application shall be filed with the Parks and Recreation Department on forms provided for such purpose. The application shall show ~~clearly by diagram, plot plan or photograph,~~ the location and identity of the tree or trees sought to be removed by diagram or plot plan and photograph(s), the name and address of the owner, and such other information as indicated on the form provided.

B. STREET TREE ADVISORY COMMITTEE RECOMMENDATION. The application shall be presented to the Street Tree Advisory Committee at the first available meeting of the Committee following receipt of the application. The Street Tree Advisory Committee may receive a report from the Parks and Recreation Director regarding the application and the Committee shall make a recommendation to the Parks and Recreation Commission to approve, conditionally approve, or deny the application based on the considerations specified in Section 15.24.080.

C. DECISION ON APPLICATION. The application shall be presented to the Parks and Recreation Commission at the first available meeting of the Commission after the Street Tree Advisory Committee has made its recommendation. After receiving the recommendation of the Street Tree Advisory Committee and a report from the Parks and

Recreation Director, the Parks and Recreation Commission shall approve, conditionally approve, or deny the application. When making its decision, the Parks and Recreation Commission shall consider the factors listed in Section 15.24.080 and make one or more of the findings specified in Section 15.24.090.

15.24.050 Application to Remove a Parking Lot Tree or a Tree on an Approved Plan.

When a permit is required for the removal of a parking lot tree or a tree on an approved plan pursuant to this Chapter 15.24, the application for such permit shall be processed as follows (excluding trees on lots within El Pueblo Viejo Landmark District or the Brinkerhoff Avenue Landmark District, which are processed pursuant to Section 15.24.055):

A. APPLICATION. An application shall be filed with the Community Development Department on forms provided for such purpose. The application shall show the location and identity of the tree or trees sought to be removed by diagram or plot plan and photograph(s), the name and address of the owner, and such other information as indicated on the form provided.

B. DECISION ON APPLICATION. The application shall be presented to the Architectural Board of Review at the first available meeting of the Board. After receiving a report from the Community Development Director, the Architectural Board of Review shall approve, conditionally approve, or deny the application. When making its decision, the Architectural Board of Review shall consider the factors listed in Section

15.24.080 and make one or more of the findings specified in Section 15.24.090.

15.24.055 Application to Remove a Tree Located in El Pueblo Viejo Landmark District or the Brinkerhoff Avenue Landmark District.

When a permit is required for the removal of a tree pursuant to this Chapter 15.24 and the tree is located on a lot within El Pueblo Viejo Landmark District or the Brinkerhoff Avenue Landmark District (except historic or specimen trees, which are processed pursuant to Section 15.24.060), the application for such permit shall be processed as follows:

A. APPLICATION. An application shall be filed with the Community Development Department on forms provided for such purpose. The application shall show the location and identity of the tree or trees sought to be removed by diagram or plot plan and photograph(s), the name and address of the owner, and such other information as indicated on the form provided.

B. DECISION ON APPLICATION. The application shall be presented to the Historic Landmarks Commission at the first available meeting of the Commission. After receiving a report from the Community Development Director, the Historic Landmarks Commission shall approve, conditionally approve, or deny the application. When making its decision, the Historic Landmarks Commission shall consider the factors listed in Section 15.24.080 and make one or more of the findings specified in Section 15.24.090.

15.24.060 Application to Remove an Historic or Specimen Tree.

When a permit is required for the removal of an historic or specimen tree pursuant to this Chapter 15.24, the application for such permit shall be processed as follows:

A. APPLICATION. An application shall be filed with the Parks and Recreation Department on forms provided for such purpose. The application shall show the location and identity of the tree or trees sought to be removed by diagram or plot plan and photograph(s), the name and address of the owner, and such other information as indicated on the form provided.

B. STREET TREE ADVISORY COMMITTEE RECOMMENDATION. The application shall be presented to the Street Tree Advisory Committee at the first available meeting of the Committee following receipt of the application. The Street Tree Advisory Committee may receive a report from the Parks and Recreation Director regarding the application and the Committee shall make a recommendation to the Parks and Recreation Commission to approve, conditionally approve, or deny the application based on the considerations specified in Section 15.24.080.

C. DECISION ON APPLICATION. The application shall be presented to the Parks and Recreation Commission at the first available meeting of the Commission after the Street Tree Advisory Committee has made its recommendation. After receiving the recommendation of the Street Tree Advisory Committee and a report from the Parks and Recreation Director, the Parks and Recreation Commission shall approve, conditionally approve, or deny the application. When making its decision, the Parks and Recreation Commission shall consider the factors listed in Section 15.24.080 and make one or more

of the findings specified in Section 15.24.090.

15.24.050 Board of Park Commissioners Action.

~~—The Board of Park Commissioners shall vote upon the application within sixty (60) days after it is filed. A majority vote of the members present shall be required to approve a tree removal. Failure of the Board of Park Commissioners to vote upon the application within sixty (60) days shall be deemed approval thereof. The Parks and Recreation Department shall notify the applicant in writing of the decision of the Board of Park Commissioners.~~

15.24.070 Action on Permit Application.

As provided in Sections 15.24.040 through 15.24.060 above, the Parks and Recreation Commission, the Historic Landmarks Commission, or the Architectural Board of Review (as applicable) shall vote upon the application within sixty (60) days after it is filed. A majority vote of the members present shall be required to approve a tree removal. A failure to vote to approve, conditionally approve, or deny the application within sixty (60) days shall be deemed an approval of the application without condition. When a decision is made by the appropriate Board or Commission, the City Department processing the application shall notify the applicant in writing of the decision.

15.24.~~060080~~ Considerations for Removal.

The following considerations shall be taken into account by the ~~Board of Park Commissioners~~Parks and Recreation Commission, the Historic Landmarks Commission, or the Architectural Board of Review, as applicable, in acting upon a tree removal request made pursuant to this chapter:

- A. Whether such tree is designated as an historic or specimen tree;
- B. The potential size of the tree in relation to the size of the lot or building site and the size of the proposed or existing improvements;
- C. The number and size of other trees which would remain upon the building site after the requested removal;
- D. The number and location of adjacent trees on City property and the possibility of maintaining desirable tree density in the area through additional planting on City property;
- E. Any beneficial effects upon adjacent trees to be expected from the proposed removal;
- F. Whether the tree sought to be removed was planted by or with the permission of the applicant or the applicant's co-tenant at the time such tree was planted.
- G. The condition and structure of the tree and the potential for proper tree growth and development of the tree canopy.

15.24.~~070090~~ Findings for Removal.

~~As a prerequisite to granting a tree removal request, the Board of Park Commissioners may impose conditions and~~Before approving or conditionally approving an application for the removal of a tree pursuant to this Chapter 15.24, the Parks and Recreation Commission, the Historic Landmarks Commission, or the Architectural Board of Review, as applicable, shall make one (1) or more of the following findings:

- A. That principles of good forest management will best be served by the proposed removal;
- B. That a reasonable and practical development of the property on which the tree is located requires removal of the tree or trees whose removal is sought;
- C. That the character of the immediate neighborhood with respect to forestation will

not be materially affected by the proposed removal;

D. That topography of the building site renders removal desirable;

E. That regard for the safety of persons or property dictates the removal.

15.24.080100 Appeals to City Council.

~~An appeal of the action of the Board of Park Commissioners may be filed by the applicant or any interested person pursuant to the provisions of Section 1.30.050 of this Code. Any action of the Parks and Recreation Commission, the Historic Landmarks Commission, or the Architectural Board of Review made pursuant to this Chapter 15.24 may be appealed to the City Council pursuant to the provisions of Section 1.30.050 of this Code.~~

15.24.110 Other City Regulations Related to Trees and Landscaping.

~~For purposes of reference, the following provisions of this Code also concern the maintenance of trees and plants within the City of Santa Barbara:~~

~~A. Section 8.04.020.G.5 & 6 Fire Code Vegetation Management and Defensible~~

~~Space Requirements~~

~~B. Chapter 8.20 “Vegetation Obstructing Public Places”~~

~~C. Chapter 15.20 “Tree Planting and Maintenance”~~

~~D. Chapter 22.10 “Vegetation Removal”~~

~~E. Chapter 22.11 “Maintenance of Approved Landscape Plans”~~

~~F. Section 22.22.130 “Approval for Construction, Demolition, Moving or~~

Exterior Alteration” (El Pueblo Viejo Landmark District & Brinkerhoff Avenue
Landmark District)

G. Chapter 22.68 “Architectural Board of Review” (Landscape Plans)

H. Chapter 22.69 “Single Family Design Board” (Landscape Plans)

I. Chapter 22.76 “View Dispute Resolution Process”

J. Section 28.87.170 “Fences, Walls, Screens and Hedges”

K. Section 28.87.200 “Landscape or Planting Plan Approvals - Standards”

L. Section 28.90.050 “Landscaping and Lighting” (Parking Lot Design
Standards)

SECTION THREE. Title 22 of the Santa Barbara Municipal Code is amended to add Chapter 22.11 to read as follows:

22.11.010 General Provisions.

The provisions of this Chapter shall apply as follows:

A. SCOPE OF APPLICATION. The provisions of this Chapter shall apply to the
following lots within the City:

1. Any lot developed with a multiple-family residential, commercial, or industrial
use; or

2. Any lot developed solely with a single-family residence or a duplex
residential unit, where the conditions of approval for the development on the lot require
the installation and maintenance of specific trees or landscape elements.

B. RELATIONSHIP TO CITY TREE PRESERVATION ORDINANCE. If a tree is

protected under both Chapter 15.24 and this Chapter 22.11, the alteration or removal of such a tree shall be processed and regulated in accordance with the provisions of Chapter 15.24. Otherwise, any tree shown on an approved landscape plan for a lot subject to this Chapter shall be maintained in accordance with the approved landscape plan and the provisions of this Chapter.

22.11.020 Definitions.

As used in this Chapter, the following terms shall have the indicated meanings:

A. **ALTERATION.** An alteration shall include, but not be limited to, the addition, placement, replacement, cutting, or removal of trees, plants, or other improvements on an approved landscape (excluding the replacement of trees, plants, or other improvements with trees, plants, or other improvements of substantially similar design, character, and coverage at maturity).

B. **APPROVED LANDSCAPE PLAN.** Any approved plan on record with the City that shows landscaping or tree improvements on the lot.

C. **MAINTENANCE.** Maintenance of an approved landscape plan consists of all of the following:

1. Regular watering, pruning, fertilizing, and clearing of debris and weeds in a manner that promotes and maintains the health and natural growing conditions of the trees and plants shown to remain or to be installed on the approved landscape plan.

2. Timely and regular removal of dead trees or plants shown to remain or to be installed on the approved landscape plan and the immediate replacement of such dead

trees or plants with new trees or plants of substantially similar design, character, and coverage at maturity as the trees or plants shown to remain or to be installed on the approved landscape plan. Removal of dead trees may require prior notice to and approval from the Parks and Recreation Director pursuant to Section 15.24.030.

3. Installation, maintenance, repair, and replacement (as necessary) of irrigation systems as specified on the approved landscape plan.

4. Compliance with any additional directions or specifications regarding the maintenance of trees and plants shown to remain or to be installed on the approved landscape plan and the irrigation systems indicated on an approved landscape plan for the lot.

22.11.030 Maintenance Required.

It is unlawful for an owner of a lot subject to the provisions of this Chapter to not maintain the trees, plants, irrigation system, and other improvements shown on an approved landscape plan in accordance with the approved landscape plan and the provisions of this Chapter. If the lot is developed solely with a single-family residence or a duplex residential unit, only the specific trees or landscape elements required by the conditions of approval must be maintained in accordance with this Section.

22.11.040 No Alteration of Approved Landscape Plan without a Permit.

It is unlawful for any person to alter or to authorize or allow the alteration of an

approved landscape plan for a lot subject to the provisions of this Chapter without the permit required pursuant to Section 22.11.050.

22.11.050 Alterations to Approved Landscape Plans.

Alterations to approved landscape plans for lots subject to the provisions of this Chapter are subject to the following regulations:

A. PERMIT REQUIRED. Except as provided in Subsections C and D of this Section, any alteration to the design, character, plant coverage at maturity, or other improvements specified on an approved landscape plan shall require a permit issued by the Community Development Department.

B. REVIEW AND APPROVAL. An application for a permit to alter an approved landscape plan shall require prior approval from the Historic Landmarks Commission, the Architectural Board of Review, or the Single Family Design Board, depending upon which body approved the landscape plan or which body is responsible for reviewing the development on the lot.

C. SIGNIFICANT ALTERATION OR REMOVAL OF TREES. Any significant alteration or removal of a tree shown on an approved landscape plan for a lot subject to this Chapter shall require compliance with Chapter 15.24 of this Code. For purposes of this subsection C, the significant alteration or removal of a tree is defined as specified in Section 15.24.020 of this Code.

D. EXCEPTIONS.

1. Notwithstanding Subsection A above, a permit is not required for minor

alterations, as specified in the administrative procedures for the Historic Landmarks Commission, the Architectural Board of Review, or the Single Family Design Board, as approved by a resolution of the City Council. Minor alterations to approved landscape plans may be approved as a ministerial action by the Community Development Director (or the Director's designee) without review by the Historic Landmarks Commission, the Architectural Board of Review, or the Single Family Design Board. The Community Development Director or the Director's designee shall have the authority and discretion to refer any minor alteration to the Historic Landmarks Commission, the Architectural Board of Review, or the Single Family Design Board if, in the opinion of the Community Development Director, the alteration has the potential to have an adverse effect on the integrity of the landscape plan.

2. Any alteration to an approved landscape plan for a lot located within El Pueblo Viejo Landmark District or the Brinkerhoff Avenue Landmark District shall be reviewed and approved pursuant to Section 22.22.130 of this Code.

SECTION FOUR. Sections 22.22.080, 22.22.130, 22.22.132, and 22.22.140 of Chapter 22.22 of Title 22 of the Santa Barbara Municipal Code are amended to read as follows:

22.22.080 Demolition, Relocation, or Alteration of a Landmark.

A. ALTERATIONS TO A CITY LANDMARK – REQUIRED FINDINGS. No City Landmark shall be altered on the exterior, relocated, or demolished, except where the Historic Landmarks Commission has determined that one or more of the following findings are applicable to the proposed alteration, relocation, or demolition:

1. The exterior alterations are being made primarily for the purposes of restoring the Landmark to its original appearance or in order to substantially aid in the preservation or enhancement of the Landmark.
2. The relocation of the Landmark will substantially aid its long-term

preservation or enhancement.

3. The landmark has been damaged by an earthquake, fire, or other similar natural casualty such that its repair or restoration is not reasonably practical or feasible and specific measures have been imposed as pre-conditions on the demolition, which measures mitigate the loss of the Landmark to a less than significant level or which measures are deemed sufficient to warrant a finding of overriding considerations pursuant to the CEQA.

B. ISSUANCE OF AN APPROVAL FOR THE RELOCATION, DEMOLITION, OR ALTERATION OF A CITY LANDMARK. In issuing an approval for the alteration of a City Landmark pursuant to this Section, the Commission shall make one or more of the findings required by Subsection (A) hereof in addition to imposing mitigation measures as conditions of approval consistent with such findings.

C. ALTERATIONS TO A PROPOSED LANDMARK. No structure, natural feature, or site recommended for designation as a Landmark pursuant to Section 22.22.050 hereof shall be altered on the exterior, relocated, or demolished after adoption by the Commission of a resolution of intention for such designation, except pursuant to the requirements of this Section.

D. APPEALS TO THE CITY COUNCIL. A final decision made by the Historic Landmarks Commission pursuant to the provisions of this Section may be appealed to the City Council pursuant to the requirements of Santa Barbara Municipal Code Chapter 1.30. Any decision by the City Council on appeal pursuant to this Section shall comply with the finding requirements of Subparagraph (A) hereof as well as the applicable requirements and provisions of the California Environmental Quality Act.

E. SIGNIFICANT PRUNING OR REMOVAL OF AN HISTORIC TREE. The significant pruning or removal of an historic tree is processed and regulated in accordance with Chapter 15.24 of this Code.

22.22.130 El Pueblo Viejo Landmark District and Brinkerhoff Avenue Landmark District.

A. APPROVAL FOR CONSTRUCTION, DEMOLITION, MOVING OR EXTERIOR ALTERATION. No structure or real property in El Pueblo Viejo Landmark District or Brinkerhoff Avenue Landmark District shall be constructed, demolished, moved or altered on its exterior without the approval of the Commission or City Council upon appeal. Minor alterations specified in the Historic Landmarks Commission Rules and Procedures, adopted from time to time by resolution, may be allowed subject to the review of the Community Development Director or his/her representative.

B. PROCEDURE. Any application for an approval or permit to construct, demolish, move or alter the exterior of any structure or real property located within El

Pueblo Viejo Landmark District or Brinkerhoff Avenue Landmark District, together with plans, elevations and site plans therefore, shall be referred to the Commission for review. A permit shall not be issued without the prior written approval of the Commission or City Council upon appeal. Any change of the exterior color or the outdoor lighting of any structure shall be referred to the Commission for review. If a building permit is not required, there shall not be any exterior alteration or change of exterior color unless there has been a final written approval of the Commission, where required, or the City Council upon appeal. The Commission or City Council on appeal shall not approve issuance of such permit unless the plans conform to the provisions of this Chapter. Any application shall be considered and either approved or disapproved by the Commission at its next regularly scheduled meeting for which an agenda has not been finalized after completion of any required environmental assessment, but may be continued to the next regular meeting. In the absence of timely oral or written objection by the applicant, the Commission may continue consideration of an application to subsequent meetings. In the event an applicant objects to continuance by the Commission and if the Commission takes no action on the application, then the application shall be deemed approved.

C. **SIGN PERMITS.** Signs which have been approved by the Sign Committee or the Commission or City Council upon appeal and for which a valid permit has been issued by the City shall not require a permit or approval under this section. Applications for permits for signs to be erected or altered within El Pueblo Viejo Landmark District and Brinkerhoff Avenue Landmark District shall be considered by the Commission only upon an appeal filed pursuant to Section 22.70.050.I.

D. PLACEMENT, ALTERATION, OR REMOVAL OF NATURAL FEATURES (INCLUDING TREES) ON PRIVATE PROPERTY. No natural feature affecting the exterior visual qualities of private property located in El Pueblo Viejo Landmark District or Brinkerhoff Avenue Landmark District (excluding trees listed in Section 15.24.020 of this Code, which are processed pursuant to Chapter 15.24) shall be placed, altered, or removed without the approval of the Commission or City Council upon appeal. Minor alterations specified in the Historic Landmarks Commission Rules and Procedures, adopted from time to time by resolution, may be allowed subject to the review of the Community Development Director or his or her representative.

22.22.132 Historic Landmarks Commission Notice and Hearing.

A. **PROJECTS THAT REQUIRE PUBLIC HEARING.** Historic Landmarks Commission review of the following projects must be preceded by a noticed public hearing:

1. New single residential units, residential duplexes, multiple residential units, mixed use (residential and non-residential) buildings, or nonresidential buildings,
2. The addition of over 500 square feet of net floor area to a single residential unit or residential duplex,
3. An addition of a new story or an addition to an existing second or higher story of a single residential unit or residential duplex,
4. The addition of over 500 square feet of net floor area or any change that will result in an additional residential unit to a multiple residential unit,
5. Small non-residential additions as defined in Section 28.87.300,
6. Projects involving grading in excess of 250 cubic yards outside the footprint of any main building (soil located within five feet (5') of an exterior wall of a main building that is excavated and recompact shall not be included in the calculation of the volume of grading outside the building footprint), ~~or~~
7. Projects involving exterior lighting with the apparent potential to create significant glare on neighboring parcels. ~~or~~
8. Projects involving the placement or removal of natural features with the apparent potential to significantly alter the exterior visual qualities of real property.

B. **MAILED NOTICE.** Not less than ten calendar days before the date of the hearing required by Subsection A above, the City shall cause written notice of the hearing

to be sent by first class mail to the following persons: (1) the applicant and (2) the current record owner (as shown on the latest equalized assessment roll) of any lot, or any portion of a lot, which is located not more than three hundred feet (300') from the exterior boundaries of the lot which is the subject of the action. The written notice shall advise the recipient of the following: (1) the date, time and location of the hearing, (2) the right of the recipient to appear at the hearing and to be heard by the Historic Landmarks Commission, (3) the location of the subject property, and (4) the nature of the application subject to design review.

C. ADDITIONAL NOTICING METHODS. In addition to the required mailed notice specified in Subsection B, the City may also require notice of the hearing to be provided by the applicant in any other manner that the City deems necessary or desirable, including, but not limited to, posted notice on the project site and notice delivered to non-owner residents of any of the twenty (20) lots closest to the lot which is the subject of the action. However, the failure of any person or entity to receive notice given pursuant to such additional noticing methods shall not constitute grounds for any court to invalidate the actions of the City for which the notice was given.

D. PROJECTS REQUIRING DECISIONS BY THE CITY COUNCIL, PLANNING COMMISSION, OR STAFF HEARING OFFICER. Whenever a project requires another land use decision or approval by the City Council, the Planning Commission, or the Staff Hearing Officer, the mailed notice for the first hearing before the Historic Landmarks Commission shall comply with the notice requirements of this Section or the notice requirements applicable to the other land use decision or approval, whichever are greater. However, nothing in this Section shall require either: 1. notice of any hearing before the Historic Landmarks Commission to be published in a newspaper, or 2. mailed notice of hearings before the Historic Landmarks Commission after the first hearing conducted by the Historic Landmarks Commission, except as otherwise provided in the Historic Landmarks Commission Guidelines adopted by resolution of the City Council.

22.22.140 Publicly Owned Property.

A. PUBLICLY OWNED BUILDINGS GENERALLY. Except as provided in Subsections (B) and (C) below, any structure, natural feature, site or area owned or leased by any public entity other than the City of Santa Barbara and designated as a Landmark or Structure of Merit, or located within any landmark district, shall not be subject to the provisions of Sections 22.22.070, 22.22.080, 22.22.104, 22.22.114, 22.22.130, and 22.22.170 of this Chapter.

B. EXCEPTION FOR CITY FACILITIES. The alteration, construction or relocation of any structure, natural feature, site or area owned or leased by the City and designated as a Landmark or Structure of Merit, or located within any landmark district, shall be reviewed by the Commission unless the City Council deems that said review would not be in the public interest.

C. EXCEPTION FOR IMPROVEMENTS WITHIN THE HIGHWAY 101 SANTA BARBARA COASTAL PARKWAY DESIGN DISTRICT. The alteration, construction or relocation of any structure, natural feature, site or area owned or leased by

a public entity within the Highway 101 Santa Barbara Coastal Parkway Special Design District as defined by Municipal Code Section 22.68.060, which requires a Coastal Development Permit pursuant to Municipal Code Chapter 28.44 and which is designated as a Landmark or Structure of Merit, or which is located within any landmark district shall be reviewed by the Commission.

D. EXCEPTION FOR STREET TREES, CITY TREES, HISTORIC TREES
AND SPECIMEN TREES. Notwithstanding Subsection B above, the placement, alteration, or removal of the following trees shall be processed and regulated as follows:

1. Any tree planted in a parkway strip, tree well, public area, or street right of way owned or maintained by the City is processed and regulated pursuant to Chapter 15.20 of this Code.

2. Any tree designated by a resolution of the City Council as an “historic tree”, an “historic landmark tree” or a “specimen tree” is processed and regulated pursuant to Chapter 15.24.

SECTION FIVE. Section 22.68.020 of Chapter 22.68 of Title 22 of the Santa Barbara Municipal Code is amended to read as follows:

22.68.020 Design Review – Non-Residential and Multi-Family Residential Buildings.

A. APPROVAL REQUIRED BEFORE ISSUANCE OF PERMIT. No building permit or grading permit, the application for which is subject to design review by the Architectural Board of Review in accordance with the requirements of this Chapter 22.68, shall be issued without the approval of the Board or the City Council, on appeal.

B. BUILDING PERMITS - NONRESIDENTIAL, MULTIPLE RESIDENTIAL, DUPLEX, TWO OR MORE DETACHED RESIDENTIAL UNITS AND MIXED USE. Any application for a building permit to construct, alter, or add to the exterior of a non-residential, multi-family residential, residential duplex or mixed use (residential and non-residential) building or a related accessory structure, or any application which will result in two or more detached residential units on one lot in any zone (other than the Single Family Zones listed in Chapter 28.15 of this Code), shall be referred to the Architectural Board of Review for design review in accordance with the

requirements of this Chapter.

C. **SUBDIVISION GRADING PLANS.** All subdivision grading plans involving grading on a lot or lots located in any zone (other than the Single Family Zones listed in Chapter 28.15 of this Code) shall be referred to the Architectural Board of Review for a review of the proposed grading.

D. **GRADING PERMITS.** Any application for a grading permit that proposes grading on any lot (other than a lot located in the Single Family Zones listed in Chapter 28.15 of this Code or a lot that is developed exclusively with a single family residence in any zone) and which application is not submitted in connection with an application for a building permit for the construction or alteration of a building or structure on the same lot shall be referred to the Architectural Board of Review for a review of the proposed grading.

E. **EXTERIOR COLOR.**

1. **New Buildings.** The Architectural Board of Review shall review the exterior color of any new building or structure that is subject to design review by the Architectural Board of Review.

2. **Alterations.** If a change of the exterior color of a building or structure is proposed in connection with another alteration to a building or structure that is subject to design review by the Architectural Board of Review, the Architectural Board of Review shall review the proposed change of color in the course of the design review of the other alteration(s).

3. **Non-Residential Buildings or Structures.** The Architectural Board of Review shall review any change to the exterior color of a non-residential building or related accessory structure whether or not the change of color is proposed in connection with another alteration of the building or structure that is subject to design review by the Architectural Board of Review.

F. **HIGHWAY 101 IMPROVEMENTS.** Improvements to U.S. Highway 101 or appurtenant highway structures which require a Coastal Development Permit pursuant to the City's Certified Local Coastal Program, and which are located within the Highway 101 Santa Barbara Coastal Parkway Special Design District as defined by Municipal Code Section 22.68.060, shall be referred to the Architectural Board of Review for design review, except for improvements to those portions of U.S. Highway 101 and its appurtenant structures that are located within the El Pueblo Viejo Landmark District, which are subject to review by the Historic Landmarks Commission pursuant to SBMC §22.22.140.B.

**G. SUBSTANTIAL ALTERATIONS TO APPROVED LANDSCAPE
PLANS FOR LOTS DEVELOPED WITH NONRESIDENTIAL OR MULTI-
FAMILY RESIDENTIAL USES.**

The Architectural Board of Review shall review any substantial alteration or
deviation from the design, character, plant coverage at maturity, or other improvements

specified on an approved landscape plan for any lot within the City of Santa Barbara that is developed with a multiple residential unit, a mixed use development, or a building that is occupied by a nonresidential use whether or not such alteration or deviation to the landscape plan is proposed in connection with an alteration to a building or structure on the lot that is subject to design review by the Architectural Board of Review. Whether a proposed alteration or deviation is substantial shall be determined in accordance with the Architectural Board of Review guidelines.

GH. ARCHITECTURAL BOARD OF REVIEW SUBMITTAL REQUIREMENTS. Applications for review by the Architectural Board of Review shall be made in writing in such form as is approved by the Community Development Director. No application required to be referred to the Architectural Board of Review shall be considered complete unless accompanied by the application fee in the amount established by resolution of the City Council.

HI. ADMINISTRATIVE REVIEW AND APPROVAL. Minor design alterations, as specified in the Architectural Board of Review Design Guidelines approved by a resolution of the City Council, may be approved as a ministerial action by the Community Development Director (or the Director's designee) without review by the Architectural Board of Review. The Community Development Director or the Director's designee shall have the authority and discretion to refer any minor design alteration to the Architectural Board of Review if, in the opinion of the Community Development Director, the alteration has the potential to have an adverse effect on the architectural or landscape integrity of the building, structure or surrounding property.

SECTION SIX. Section 22.69.020 of Chapter 22.69 of Title 22 of the Santa Barbara Municipal Code is amended to read as follows:

22.69.020 Neighborhood Preservation - Single Family Residential Unit Design Review.

A. **APPROVAL REQUIRED BEFORE ISSUANCE OF PERMIT.** No building permit, grading permit, vegetation removal permit, or subdivision grading plan, the application for which is subject to the review of the Single Family Design Board pursuant to this Chapter 22.69, shall be issued without the approval of the Board or the City Council, on appeal.

B. **BUILDING PERMITS - SPECIAL DESIGN DISTRICTS.**

1. **Mission Area Special Design District and Lower Riviera Survey Area - Bungalow District.** Applications for building permits to construct, alter,

or add to the exterior of a single family residential unit or a related accessory structure on a lot or lots within the Mission Area Special Design District or the Lower Riviera Survey Area - Bungalow District identified in Section 22.68.060 shall be referred to the Single Family Design Board for design review in accordance with the requirements of this Chapter and the approved Single Family Design Board Guidelines.

2. **Hillside Design District.** Applications for building permits to construct, alter, or add to the exterior of a single family residential unit or a related accessory structure on a lot or lots within the Hillside Design District identified in Section 22.68.060 shall be referred to the Single Family Design Board for design review in accordance with the requirements of this Chapter and the approved Single Family Design Board Guidelines if either:

- a. The average slope of the lot or the building site is 20% or more as calculated pursuant to Section 28.15.080 of this Code; or
- b. The application involves a structural alteration to the roof form or the replacement of the roof covering of a building on the lot.

C. **BUILDING PERMITS - SINGLE FAMILY RESIDENTIAL UNITS.** Applications for building permits to construct, alter, or add to the exterior of a single family residential unit or a related accessory structure on any lot shall be referred to the Single Family Design Board for design review in accordance with the requirements of this Chapter and the Single Family Design Board Guidelines if the project for which the building permit is sought involves any of the following:

1. The construction of a new building or structure where any portion of the proposed construction is either: (i) two or more stories tall, or (ii) seventeen feet (17') or taller in building height (for purposes of this paragraph 1, building height shall be measured from natural grade or finished grade, whichever is lower), or
2. An alteration to an existing building or structure where any portion of the proposed alteration either: (i) alters the second or higher story of the building or structure, or (ii) alters a point on the existing building or structure that is seventeen feet (17') or higher in building height (for purposes of this paragraph 2, building height shall be measured from natural grade or finished grade, whichever is lower), or
3. An addition to an existing building or structure where any part of the proposed addition is either: (i) two or more stories tall, or (ii) seventeen feet (17') or taller in building height (for purposes of this paragraph 3, building height shall be measured from natural grade or finished grade, whichever is lower), or
4. The net floor area of all floors of all existing and new buildings on the lot will exceed four thousand (4,000) square feet as calculated pursuant to Section 28.15.083 of this Code, or
5. The project requires a net floor area modification pursuant to Section 28.92.110.A.6 of this Code, or
6. The construction, alteration, or addition of a deck on the second or higher floor (including roof decks) or a balcony on the second or higher floor of any building that will extend perpendicularly more than three feet (3') from the adjacent exterior wall or will be more than seven feet (7') in length in the dimension parallel to the adjacent exterior wall, or
7. The construction, alteration, or addition of a retaining wall that is six feet (6') or greater in height, or

8. The construction, alteration, or addition of a wall, fence or gate in the front yard of the lot that is six feet (6') or greater in height, excluding walls, fences, or gates that are constructed along the interior lot lines of the lot, shall be referred to the Single Family Design Board for a review of the proposed wall, fence or gate, or

9. The installation of a manufactured home, mobile home or factory-built home (as those terms are defined in the California Health and Safety Code), subject to the limitations on review specified in Government Code section 65852.3 et seq., or

10. The installation of a single family residential unit that was, as a whole or in part, previously located on another lot, or

11. Grading outside the footprint of the main building on the lot that exceeds either: (i) fifty (50) cubic yards on a lot within the Hillside Design District identified in Section 22.68.060, or (ii) two hundred fifty (250) cubic yards on a lot that is not within the Hillside Design District. For purposes of this paragraph 11, soil located within five feet (5') of an exterior wall of a main building that is excavated and recompacted shall not be included in the calculation of the volume of grading outside the main building footprint.

D. **SUBDIVISION GRADING PLANS.** All subdivision grading plans involving grading on a lot or lots located in any of the single family zones listed in Chapter 28.15 of this Code shall be referred to the Single Family Design Board for a review of the proposed grading.

E. **GRADING PERMITS.** Applications for grading permits that propose grading on a vacant lot or lots located within a single family zone listed in Chapter 28.15 of this Code or on any lot that is developed exclusively with a single family residence and related accessory buildings, and which are not submitted in connection with an application for a building permit for the construction or alteration of a building or structure on the same lot or lots, shall be referred to the Single Family Design Board for a review of the proposed grading.

F. **VEGETATION REMOVAL PERMITS.** Applications for vegetation removal permits pursuant to Chapter 22.10 of this Code on a lot or lots located within a single family zone listed in Chapter 28.15 of this Code, or on any lot that is developed exclusively with a single family residence and related accessory buildings, shall be referred to the Single Family Design Board for a review of the proposed vegetation removal.

G. **RETAINING WALLS.** The following types of retaining wall improvements, if located on a lot or lots within a single family zone listed in Chapter 28.15 of this Code, or on any lot that is developed exclusively with a single family residence and related accessory buildings, shall be referred to the Single Family Design Board for design review of the proposed retaining walls in accordance with the requirements of this Chapter and the approved Single Family Design Board Guidelines:

1. The construction of a retaining wall on a lot or a building site with an average slope of 15% or more (as calculated pursuant to Section 28.15.080 of this Code), or

2. The construction of a retaining wall on a lot that is adjacent to or contains an ocean bluff, or

3. The construction of multiple terracing retaining walls that are not separated by a building or a horizontal distance of more than ten feet (10') where the combined height of the walls exceeds six feet (6').

H. SUBSTANTIAL ALTERATIONS TO APPROVED LANDSCAPE PLANS.

The Single Family Design Board shall review any substantial alteration or deviation from the design, character, plant coverage at maturity, or other improvements specified on an approved landscape plan for any lot within the City of Santa Barbara that is developed with a single-family residence where the conditions of approval for the development on the lot require the installation and maintenance of trees or landscaping in accordance with an approved landscape plan whether or not such alteration or deviation to the landscape plan is proposed in connection with an alteration to a building or structure on the lot that is subject to design review by the Single Family Design Board. Whether a proposed alteration or deviation is substantial shall be determined in accordance with the Single Family Design guidelines.

HI. SUBMITTAL REQUIREMENTS. Applications for review by the Single Family Design Board shall be made in writing in such form as is approved by the Director of Community Development. No application shall be considered complete unless accompanied by the application fee in the amount established by resolution of the City Council.

IJ. ADMINISTRATIVE APPROVAL. Minor design alterations, as specified in the Single Family Design Guidelines or the Single Family Design Board Guidelines approved by a resolution of the City Council, may be approved as a ministerial action by the Community Development Director or the Director's designee without review by the Single Family Design Board. The Community Development Director (or the Director's designee) shall have the authority and discretion to refer any minor design alteration to the Single Family Design Board if, in the opinion of the Community Development Director, the alteration has the potential to have an adverse effect on the architectural or landscape integrity of the building, structure or surrounding property.

JK. PRESUMPTION REGARDING PRIOR GRADING, TREE REMOVAL, AND CONSTRUCTION. There shall be a presumption that any grading, removal of trees, or construction that occurred on the lot within two years prior to the

submittal of an application for a building permit to construct, alter, or add to a single family residential unit or a related accessory structure was done in anticipation of such application, and said activities will be included in determining whether the project is subject to review by the Single Family Design Board pursuant to this Chapter. For purposes of this presumption, if the prior work required a permit from the City, the prior work shall not be considered complete unless a final inspection has occurred or a certificate of occupancy has been issued. An applicant has the burden to rebut this presumption with substantial evidence sufficient to convince the Single Family Design Board that such work was not done in an effort to avoid review of the entirety of the project by the Single Family Design Board.

KL. SINGLE FAMILY DESIGN GUIDELINES. The Single Family Design Guidelines adopted by resolution of the City Council shall provide direction and appropriate guidance to decision makers and City staff in connection with applications reviewed pursuant to this Chapter.

RESOLUTION NO. _____

A RESOLUTION OF THE COUNCIL OF THE
CITY OF SANTA BARBARA ESTABLISHING
ADMINISTRATIVE PENALTIES FOR TREE
REMOVALS, EXCESSIVE PRUNING AND
LANDSCAPE PLAN MAINTENANCE
VIOLATIONS OF CHAPTERS 15.20, 15.24, AND
22.11 OF THE SANTA BARBARA MUNICIPAL
CODE.

WHEREAS, Chapter 1.25 of the Santa Barbara Municipal Code (Municipal Code) enables the City, acting as a charter city pursuant to Article XI, Sections 5 and 7 of the state Constitution, to impose and collect civil administrative fines in conjunction with the abatement of violations of the provisions of the Municipal Code;

WHEREAS, Chapter 1.25 of the Municipal Code provides that the City Council shall establish by Resolution the amounts of the civil administrative fines and penalties to be imposed and paid pursuant to Chapter 1.25 of the Municipal Code; and

WHEREAS, the City Council wishes to establish administrative penalties for certain violations of the provisions of Chapters 15.20, 15.24, and 22.11 of the Municipal Code.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SANTA BARBARA RESOLVES AS FOLLOWS:

The following administrative fines and penalties are established for Administrative Citations issued pursuant to Chapter 1.25 of the Municipal Code for violations of the following sections of the Municipal Code:

I. Removal or Significant Alteration of a Protected Tree

Violations of section 15.20.115 or section 15.24.020 of the Municipal Code shall be subject to the following administrative fines and corrective actions:

a. Administrative Fine Schedule

Action without or in violation of permit	Trunk diameter from 4" to 12"	Trunk diameter over 12" and up to 24"	Trunk diameter over 24"
Significant Alteration	Up to \$500	Up to \$1,000	Up to \$1,000
Removal	Up to \$1,000	Up to \$3,000	Up to \$5,000

b. Corrective Actions

In addition to the assessment of an administrative fine in accordance with the schedule above, a person who violates either section 15.20.115 or section 15.24.020 of the Municipal Code may also be required to perform corrective actions as determined appropriate by City Arborist or Community Development Director (depending on which Department is administering the offense). Corrective actions may include the following:

1. Development and implementation of a tree rehabilitation program designed by a certified arborist as necessary to rehabilitate the tree from the effects of the significant alteration.
2. If the tree has been removed or if the tree cannot be rehabilitated, the City Arborist or Community Development Director may require the tree to be replaced. Replacement trees shall be as large as are commercially available within southern California up to the size of the tree that was removed or altered in such a manner that it cannot be rehabilitated. If replacement trees of a similar size are not commercially available or circumstances do not reasonably allow for the replacement of a tree of equal or similar size, the City Arborist or Community Development Director may allow for replacement of multiple trees of a smaller size or the replacement of the removed tree with a tree of another appropriate species.
3. If the required corrective action has not been completed within the time specified by the City Arborist or Community Development Director in the notice of violation (in any case not less than 30 days), an administrative fine of \$100 per day may be assessed for each day the corrective action has not been completed after the time specified in the notice of violation.

II. Maintenance of Approved Landscape Plans

Violations of section 22.11.030 or section 22.11.040 of the Municipal Code shall be subject to the following administrative fines and corrective actions:

a. Administrative Fine Schedule

1. For a violation of either section 22.11.030 or section 22.11.040 generally, the administrative fine shall be up to one hundred dollars (\$100) for each violation.
2. For a second violation of section 22.11.030 or section 22.11.040 occurring within twelve (12) months of the first violation, the administrative fine shall be up to two hundred dollars (\$200) for each violation.
3. For a third or subsequent violation of section 22.11.030 or section 22.11.040 occurring within twelve (12) months of the first violation, the administrative fine shall be up to two hundred fifty dollars (\$250) for each violation.

b. Corrective Actions

In addition to the assessment of an administrative fine in accordance with the schedule above, a person who violates either Section 22.11.030 or Section 22.11.040 of the Municipal Code may also be required to perform corrective actions as determined appropriate by City Arborist or Community Development Director (depending on which Department is administering the offense). Corrective actions may include the following:

1. Development and implementation of a tree rehabilitation program designed by a certified arborist as necessary to rehabilitate the tree from the effects of the significant alteration.
2. If the tree or landscaping has been removed or if the tree or landscaping cannot be rehabilitated, the City Arborist or Community Development Director may require the tree or landscaping to be replaced in accordance with the approved landscape plan. Replacement trees shall be as large as are commercially available within southern California up to the size of the tree that was removed or altered in such a manner that it cannot be rehabilitated. If replacement trees of a similar size are not commercially available or circumstances do not reasonably allow for the replacement of a tree of equal or similar size, the City Arborist or Community Development Director may allow for replacement of multiple trees of a smaller size or the replacement of the removed tree with a tree of another appropriate species.
3. Presentation of a new landscape plan to the appropriate review body for review and approval. Following approval of such revised landscape plan, the person shall install the trees, landscaping, and other improvements in accordance with the newly approved landscape plan.
4. If the required corrective action has not been completed within the time specified by the City Arborist or Community Development Director in the notice of violation (in any case not less than 30 days), an administrative fine of \$100 per day may be assessed for each day the corrective action has not been completed after the time specified in the notice of violation.



CITY OF SANTA BARBARA

COUNCIL AGENDA REPORT

AGENDA DATE: December 8, 2009

TO: Mayor and Councilmembers

FROM: Risk Management Division, Finance Department

SUBJECT: Conference With Legal Counsel – Pending Litigation

RECOMMENDATION:

That Council hold a closed session to consider pending litigation pursuant to subsection (a) of section 54956.9 of the Government Code and take appropriate action as needed. Pending litigation considered is: ***Warner McGrew v. City of Santa Barbara, WCAB, Case Number GOL 0101359.***

Scheduling: Duration, 10 minutes; anytime

Report: None anticipated

PREPARED BY: Mark W. Howard, Risk Analyst

SUBMITTED BY: Robert Samario, Interim Finance Director

APPROVED BY: City Administrator's Office



CITY OF SANTA BARBARA

COUNCIL AGENDA REPORT

AGENDA DATE: December 8, 2009

TO: Mayor and Councilmembers

FROM: Planning Division, Community Development Department

SUBJECT: Medical Marijuana Dispensary Suspension Ordinance

RECOMMENDATION:

That Council introduce and subsequently adopt, by reading of title only, An Ordinance of the Council of the City of Santa Barbara Temporarily Suspending the Opening or Operation of New Medical Marijuana Dispensaries Otherwise Allowed Under Santa Barbara Municipal Code Chapter 28.80 on an Interim Basis.

DISCUSSION:

Background

On July 28, 2009, the City Council directed the Ordinance Committee to consider possible revisions to the City's Medical Cannabis Dispensary Ordinance, SBMC Chapter 28.80. The Ordinance Committee met several times and took a great deal of public comment and, ultimately, provided direction to City Staff on the significant proposed revisions to the City's Dispensary Ordinance. A draft ordinance containing the proposed revisions has now been forwarded to the Planning Commission for a hearing on their recommendations to the City Council, as required by the state Planning and Zoning Law (Government Code §§65000.)

On November 17, 2009, the City Council also directed the Ordinance Committee to consider further amending the Medical Cannabis Dispensary Ordinance to accomplish the following: 1. to make it more clear that, pursuant to state law (i.e., the Compassionate Use Act), the City only allows the cultivation and distribution of medical marijuana through cooperatives or collectives; and 2. to develop additional City regulations for storefront cooperatives and collectives such that they are required to operate as true collectives/cooperatives in a manner consistent with the state Attorney General August 2008 "Guidelines for the Security and Non-Diversion of Marijuana Grown for Medical Use" – hereinafter the "Attorney General Guidelines."

As part of the November 17th action, the City Council also directed staff to return to Council as soon as possible with an ordinance suspending the opening of new medical marijuana dispensaries pending the consideration of these long-term SBMC Chapter

28.80 revisions. As discussed at the time, Staff understood that the Council wished to have this suspension apply to any dispensary which had not been fully permitted and received a final City building permit prior to the Council's November 17, 2009 decision to consider a suspension ordinance.

Approved and Pending Dispensary Applications

This following is a list of City approved, disapproved, and pending dispensary applications.

Approved and Operating:

331 N. Milpas

Approved with Building Permits Issued:

500 N. Milpas (Building Permit issued 10/6/09. Most work is complete, but there are revisions that are currently in plan check)

629 Olive (Building Permit issued 11/18/09)

Approved by Staff Hearing Officer, Pending Appeal at Planning Commission:

741-781 Chapala
302 E. Haley

Pending Applications:

430 Chapala
826 Chapala
234 E. Haley
2915 De la Vina
16 S. La Cumbre

Approved by SHO but Disapproved by Planning Commission:

2 W. Mission

Proposed Suspension Ordinance

As directed by the Council on November 17th, the proposed ordinance suspending City approvals for new Medical Cannabis Dispensaries (attached to this Council Agenda Report) would prohibit the opening or operation of any new medical cannabis dispensary within the City unless the dispensary had received a City permit pursuant to SBMC Chapter 28.80 and had opened for care giving to "qualified patients" on or prior

to November 18, 2009 including those permittees who had obtained a final building permit for any necessary tenant improvements. Thus, the currently permitted dispensary at 331 North Milpas would be allowed to continue in operation. In addition, the “permitted” dispensaries at 500 North Milpas and 629 Olive which have already obtained City building permits would be allowed to open if they chose to do so. Otherwise, under the proposed suspension ordinance, other currently proposed dispensaries would not be allowed to open or operate until the City has finalized its consideration of the long-term revisions to the SBMC Chapter 28.80.

In addition, the draft ordinance contains an optional provision (*Section Three*) which directs the Community Development Department staff to also suspend the processing of pending or new dispensary applications while the Council considers possible revisions to the City’s regulations for medical marijuana. However, this provision, would allow potential dispensary operators to continue to apply and to have their application reviewed by CDD staff for completeness. This approach should allow an efficient process for the City to establish priorities among applicants for any particular potential dispensary location based on the date an application was deemed complete. Staff will seek Council direction on whether this optional provision should be included in the final draft of the Ordinance.

As a result, the proposed “suspension” ordinance would not affect approved dispensaries which are duly operating within the City as of November 17th, whether conforming or nonconforming, so long as they are legally permitted and continued to operate in the manner required by SBMC Chapter 28.80. It also would not alter the fact that City staff is pursuing and will continue to pursue code enforcement and possible police enforcement action against those dispensaries which are operating illegally within the City.

Proposed Interim Suspension Ordinance Extension.

As required by the state Planning and Zoning law for “interim” zoning ordinances, the dispensary suspension ordinance will be effective for only 45 days from the date of its adoption – i.e., until the end of January 2010. Since Staff understands that it is the Council’s intent to restrict the operation of new dispensaries until after the public, the Planning Commission, and the City Council have had an adequate opportunity to fully discuss and consider revisions to the City medical marijuana regulations (especially with respect to whether storefront dispensaries are consistent the Attorney General’s Guidelines and are allowed by state law), staff believes that it will take longer than 45 days to draft and properly consider such revisions. Consequently, staff is planning on the need to return to the Council in January to extend the suspension ordinance for the full ten month and 15 day period allowed by section 65858 of the Government Code. However, if the medical marijuana ordinance revisions are adopted by the Council prior to the one-year suspension, the suspension will be superceded by the City’s new revised medical marijuana ordinance.

Council Agenda Report
Medical Marijuana Dispensary Suspension Ordinance
December 8, 2009
Page 4

PREPARED BY: Danny Kato, Senior Planner

SUBMITTED BY: Paul Casey, Community Development Director
Stephen P. Wiley, City Attorney

APPROVED BY: City Administrator's Office

AN ORDINANCE OF THE COUNCIL OF THE
CITY OF SANTA BARBARA TEMPORARILY
SUSPENDING THE OPENING OR OPERATION
OF NEW MEDICAL MARIJUANA
DISPENSARIES OTHERWISE ALLOWED UNDER
SANTA BARBARA MUNICIPAL CODE CHAPTER
28.80 ON AN INTERIM BASIS.

WHEREAS, in 1996, California voters approved Proposition 215, (hereinafter referred to as "The Compassionate Use Act") which Act legalized the limited use of marijuana for medical purposes and allowed persons to grow and possess medicinal marijuana based on the recommendation of a licensed physician; and

WHEREAS, in 2003 the California State Legislature enacted supplemental medical marijuana legislation in order to fully implement the Compassionate Use Act (Senate Bill 420 effective January 1, 2004) which was also intended to clarify the application and scope of the Compassionate Use Act and enhance the access of "qualified patients" and "primary caregivers" to medical marijuana through collective or cooperative group cultivation projects; and

WHEREAS, neither the Compassionate Use Act nor Senate Bill 420 expressly allows medical marijuana dispensaries, particularly those that operate on a "for profit" or retail storefront basis and which, while purporting to operate within the SB 420 definition of a "primary caregiver," actually often only provide marijuana on an over-the-counter or "retail" basis; and

WHEREAS, a proliferation of dispensaries within California has followed the passage of the Compassionate Use Act in 1996 and the enactment of the SB 420 statutes and, in some instances, the spirit and intent of the Compassionate Use Act has apparently been and is being exploited and abused both for profit motivation reasons and for recreational drug abuse by many individuals who improperly obtain marijuana from medical marijuana dispensaries; and

WHEREAS, as pointed out in the Compassionate Use Act Guidelines adopted by the state Attorney General's Office in

Council Meeting of December 8, 2009
Uncodified Ordinance

August 2008, (the California Attorney General's "Guidelines for the Security and Non-Diversion of Marijuana Grown for Medical Use") state law does not specifically or expressly permit Medical Marijuana Dispensaries to operate. According to these Guidelines, the lack of statewide regulations or guidelines has created confusion and hampered the ability of local police and other law enforcement to investigate and prosecute Medical Marijuana Dispensary operators that have been linked to criminal activity, such as selling marijuana for recreational use and distributing marijuana to individuals who re-sell the marijuana to persons who are not qualified patients or primary caregivers under the Compassionate Use Act; and

WHEREAS, in several recent published decisions issued by the courts, such as *People v. Hochanadel* (98 Cal.Rprt.3d 347 - decided in August 2009) and *People v. Mentch* (85 Cal.Rptr.3d 480 - decided in November 2008), the courts of this state have indicated that Medical Marijuana Dispensaries may only be allowed or permitted by the Compassionate Use Act and the SB 420 statutes under very limited circumstances and they have indicated that cities may regulate medical marijuana dispensaries and enforce the Compassionate Use Act using their local police and enforcement powers; and

WHEREAS, Medical Marijuana Dispensaries have been known to operate and advertise in and or close to schools, to unlawfully sell marijuana for profit, to lack the medical expertise and security to be able to properly dispense marijuana, and to regularly sell marijuana to individuals without any of the required legal medical documentation; and

WHEREAS, The Santa Barbara City Council believes that it should immediately evaluate the impacts of Medical Marijuana Dispensaries on its residents, neighborhoods, and on adjacent legally operated businesses; and

WHEREAS, this interim City ordinance is designed to prevent new Medical Marijuana Dispensaries from opening or operating while an inter-departmental staff group, led by the Community Development Department, the Police Department, and the City Attorney's office, meets with the Council Ordinance Committee in public hearings and the Committee crafts a draft ordinance intended to regulate the operation of medical marijuana dispensaries and establish viable regulations for consideration

by the full City Council, all in the manner allowed under the Compassionate Use Act and the SB 420 statutes; and

WHEREAS, this interim ordinance gives the City the time it needs to undertake the critically important task of developing a comprehensive strategy for regulating Medical Marijuana Dispensaries, thus ensuring that this important legislative opportunity is fully examined in depth while not permitting new Medical Marijuana Dispensaries to be established throughout the City;

NOW THEREFORE, the City Council of the City of Santa Barbara does ordain as follows:

Section One. Findings for an Interim Zoning Ordinance.

The City Council finds and declares that this interim suspension ordinance is required to address a current and immediate threat to the public peace, health, safety and welfare of the residents of the City for all of the reasons stated in the above-recitals as well as for the following reasons:

1. This ordinance will temporarily limit the opening or operation of new Medical Marijuana Dispensaries and will prevent an insufficiently regulated increase in dispensaries pending the City Council consideration and adoption of a long-term and more comprehensive City ordinance regulating the distribution of medical marijuana within the City. Such an ordinance is likely to be more consistent with the City's General Plan (including the proposed new General Plan being prepared and known as Plan Santa Barbara) and the City's Zoning Ordinance, SBMC Title 28, such that the distribution of medical marijuana within Santa Barbara will be more consistent with the City's zoning regulations and with state law.
2. The City staff recommendation that Santa Barbara have a long-term City ordinance truly reflective of the spirit and intent of the Compassionate Use Act and the SB 420 statutes would probably be substantially undermined if new dispensaries are allowed to open or operate pending the public consideration and City Council review of the proposed long-term City ordinance on medical marijuana.

3. The number of dispensaries operating within the City (both legal and illegal) is apparently increasing (as is the number of new of dispensary applications) and the City Police and City Community Development Departments have received complaints from neighbors, business owners, and concerned citizens regarding the potential negative criminal impacts of some of these dispensaries. Without interim City restrictions on the opening of new dispensaries and on the appropriate location of a dispensary and its hours of operation, the result may be the establishment of dispensaries in close proximity to sensitive uses operating at all hours.

4. This interim ordinance will prevent an insufficiently regulated increase in the number of new dispensaries and will provide the public and the City Council with the appropriate time it needs to determine if the dispensary model of providing access to Medical Marijuana is allowed by state law and, if so, under what circumstances it is allowed. This interim ordinance will also permit the City to develop appropriate regulations relative to the distances permitted dispensaries should be from sensitive uses, and to determine appropriate methods of operation, as well as the circumstance of when and where dispensaries would be compatible with the surrounding uses, and other related land use issues. As such, it is appropriate that this ordinance be adopted on an urgency basis pursuant to the authority of Government Code section 65858.

Section Two. Interim Prohibition on the Opening or Operation of New Dispensaries.

Pending the consideration and possible enactment of a comprehensive City revision to Santa Barbara Municipal Code Chapter 28.80 for consistency with the Compassionate Use Act and state law (as well as the state Attorney General's Compassionate Use Act Guidelines of August 2008), no medical marijuana dispensary or medical cannabis dispensary which has not received its final City land-use approval pursuant to Santa Barbara Municipal Code Chapter 28.80 and also obtained a City building permit for proposed improvements to the Dispensary location prior to or on November 18, 2009 shall open or operate within the City of Santa Barbara while this ordinance remains in effect.

Section Three. Pending Applications. (Optional Provision)

Pending the consideration and possible enactment of a comprehensive City revision to Santa Barbara Municipal Code Chapter 28.80 for consistency with the Compassionate Use Act and state law (as well as the state Attorney General's Compassionate Use Act Guidelines of August 2008, the Community Development Department may continue to accept and process applications for a dispensary permit pursuant to Santa Barbara Municipal Code Chapter 28.80 and may determine if such applications are complete (as required by the state Permit Streamlining Act) but shall not submit such applications to the Staff Hearing Officer (or the Planning Commission on an appeal) for review and approval or disapproval until the enactment of revisions to Chapter 28.80 or this ordinance is otherwise superseded.

Section Four. Effective Period of Ordinance.

This ordinance shall remain in effect pending the effective date of amendments to Santa Barbara Municipal Code Chapter 28.80 or the required expiration date of this interim ordinance (as provided by state Government Code Section 65858) whichever occurs first.